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Title: Combined discussion on the motion for consideration of the National Investigation Agency Bill, 2008 and the Unlawful Activities (Prevention) Amendment Bill, 2008. (Bills Passed).

SHRI P. CHIDAMBARAM: I beg to move:

> "That the Bill to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organizations and for matters connected therewith or incidental thereto, be taken into consideration. "

> "That the Bill further to amend the Unlawful Activities (Prevention) Act, 1967, be taken into consideration."

13.49 hrs. (Shri Arjun Sethi *in the Chair*)

Sir, I wish to take a few minutes to explain the salient features of the Bills so that the hon. Members when they speak can offer their valuable suggestions. The National Investigation Agency Bill, 2008 is to set up an Investigation Agency to deal with only eight laws. I think this is important. This is not an Agency to deal with offences under all the laws. It is only about eight laws and the eight laws are mentioned in the Schedule.

Secondly, the Agency that is being set up will be set up under the Central Government. In Chapter III we have laid down the procedure, which respects the primary responsibility of the State Governments to investigate such offences, but takes the power only in exceptional circumstances. When information is received in a police station about offences in respect of one of those eight laws, the information will be given first to the State Government and the State Government shall send it to the Central Government.[MSOffice22]

The Central Government shall, within fifteen days, having regard to the gravity of the offence and other relevant factors – this is important – having regard to the gravity of the offence and other relevant factors, which we will state in the Rules, have to decide whether this is a fit case to be taken up by the NIA or not. If the Central Government does not take up the case with the NIA, the matter will remain with the State Government. But if the Central Government directs the NIA to take up the case, then, and then alone, that the NIA will take up the case. After taking up the case this is a very important section where it is expedient to do so, the NIA will ask the State Government to associate itself with the investigation. In fact, I may say that in many cases I expect the NIA to say that the State Government should associate with the investigation or after investigating the matter if the NIA finds that the matter is not so important, it can still be done by the State Government, it can return the case to a State Investigative Agency to be investigated by the State. So, we have struck a balance between the right of the State and duties of the Central Government to investigate the more important cases.

Sir, we have also decided to set up special courts. The important aspect of this special court is that the judge of a special court will be nominated on the recommendation of the Chief Justice of the High Court. Then, when the judge is appointed, we have said, the attainment of the age of superannuation by the judge will not stand in the way of continuing with the trial and the Central Government can request the judge by an order to continue with the trial until a specified date or until the case is completed. Our experience is, because judges retire and judges change, these cases drag on for many years. We are anxious that the case should be tried on a day to day basis and should be concluded and we will ensure that the judge who is nominated by the Chief Justice concludes the trial within a specified date.

The usual provisions about the special courts and powers of the Supreme Court and High Courts are provided. There is no extraordinary provision.

Then, Sir, we have said that an appeal will lie and an appeal will lie to the Division Bench of the High Court and the Division Bench of the High Court shall dispose of the appeal within three months.

Sir, miscellaneous provisions can be seen. There are no extraordinary provisions and there are no unusual provisions. I have explained the broad features of the NIA. I would respectfully request all sections of the House to support the NIA. Let us allow this Bill to be passed. I know there may be reservations about one clause or another clause. But this is the time to demonstrate to the country that despite our reservations, we are all united. Let us pass the Bill. If in the working of the Bill, we find there are any deficiencies, when we will meet again in February, I can always come back to make any improvement which the hon. Members

may consider necessary. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : Will there be another Session? SHRI P. CHIDAMBARAM: There will be a Session for Vote on Account. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : I would like to know whether it will be in continuation of the current Session.

SHRI P. CHIDAMBARAM: That I do not know. I am not saying that. I have only said that we will meet in February. So, my request is that the NIA Bill may be passed. The nation is watching us and even as I speak the nation is watching us. They want a Central Agency for the investigation. I am grateful to all sections to agreeing to the principle. So, despite the fact that one or two of you may have some reservation about this aspect or that aspectâ€¦...(*Interruptions*) Let me finish and then you can ask. I will answer all your clarifications. I am here the whole day. I will answer all your clarifications.

The other Bill is, of course, a Bill on which there are very strong views on every side. I am not being judgmental at all. I want to assure the hon. Leader of the Opposition that I am not being judgemental. I recognize that there is one section which says, bring back POTA or bring back a law like POTA. There is another section even within my own Party, within the UPA, where there is a strong opinion that POTA cannot be brought back. There is one section which believes confession to a police officer must be made admissible. There is an equally strong opinion that confession to a police officer should not be made admissible. There is one section which believes that bail should be denied that jail is the rule and bail is the exception.[a23]

The other section believes following the Supreme Court judgement that bail is the rule and the jail is exception but you can put some safeguards. So, I have had the benefit of interacting with the hon. Leader of the Opposition and one of the representatives named by him for detailed discussion of the contents. I have had the benefit of discussion with the major political formations. We have discussed it within the UPA. Let me say with utmost humility that what is being presented here is a fair balance of all the views without compromising the ability of the agency to prosecute the offence and, at the same time, without disregarding what are considered fundamental, basic human rights. I have tried to make the best possible balance of these two competing, two equally important values and virtues which we cherish in life. Therefore, my request is: Please allow me to explain in three or four minutes the four or five features of this Bill. Again, my appeal will be: Let us pass this Bill. If any improvements have to be done, we can always come back and look at the Bill when we meet again in February.

What does the Bill do? As the hon. Members are aware, Chapter-IV was introduced into the Unlawful Activities (Prevention) Act. Chapter-III deals with the unlawful associations. Chapter-IV adds terrorist offence. We have now bodily lifted the definition of the terrorist offence or terrorist act from the United Nations Resolution. This is universally accepted now. Universally, this definition is accepted. We have simply lifted that definition. There can be no quarrel about the definition. The important changes that we are making are: one, add terrorist funding. It is important that we strike at the root of the terrorist funding. So, we have included the provision on terrorist funding. This Section 17 which is being substituted. We are including a provision on organising terrorist camps. This is Section 18 (A) and punishment for that is provided in Section 18 (B).

Then, Sir, the other provision that we have introduced is the bail provision. Let me explain it. Section 167 of the Criminal Procedure Code says 15 days automatic remand; 90 days in the case of punishment with death or imprisonment for life and 60 days in any other case. All that we are doing is 15, 90 and 60 are being replaced by 30, 90 and 90, that is, 15 becomes 30, 90 remains 90 and 60 becomes 90. In a terrorist case, we need this extra time. It is not possible to complete the investigation within the 60 days period for an offence where the punishment is not life imprisonment. Therefore, instead of making it one year as in POTA, we have made it 30, 90 and 90. I think this is a fair balance and I wish hon. Members will support it.

We have added a proviso. I want to explain the proviso. The proviso says that if it is not possible to complete the investigation within a period of 90 days, not on the say of the Public Prosecutor, not merely on the *ipse dixit* of the Public Prosecutor, but if the court is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reason for the detention of the accused beyond of the period of 90 days, the court may extend the period up to 180 days. Not necessarily 180 days but they may give him one week more; they may give him 10 days more or they may give him 15 days more. This would be an exceptional situation only if the report indicates the progress of the investigation. Suppose a case has not progressed at all. Surely, the court will not grant extra time. At the end of 90 days, automatic bail will arise.

Then, we make an important amendment in the manner in which the bail application should be dealt with. POTA gave rather extraordinary weight to the word of the Public Prosecutor. In fact, if you read POTA carefully, it appears that the Public Prosecutor was dictating to the court rather than the court asserting its authority. Now, what we are saying is that the court can deal with the bail application but it must give an opportunity of hearing the Public Prosecutor.[R24]

14.00 hrs

That means you cannot pass an ex-parte order, you cannot pass an order without hearing the Public Prosecutor.

Then, we say under what circumstance bail cannot be granted. This is one provision that I would like to draw your kind attention. We are saying that if on a perusal of the case diary or the report under Section 173 – that is the final report or what we call the challan – the court is of the opinion that there are reasonable grounds for believing that the accusation against a person is *prima facie* true, then and then alone can bail be refused. Please remember that in POTA and other Acts, it was the other way round. The court must come to the conclusion that the accused person is not guilty of the offence and that he is not likely to commit any other offence while in bail which really meant prejudging the case. So, what we have said is, you can refuse bail only under one circumstance, namely if on a perusal of the case diary or the report under Section 173 you come to the conclusion that there are reasonable grounds to believe that the accusations against the accused are *prima facie* true, only then the court can decline bail. Again, the High Courts and the Supreme Court have ample powers and this does not, in any way, bind the High Courts and the Supreme Court. This will apply mainly to the trial court.

Then, we are introducing a provision on a rebuttable presumption. As hon. Members are aware and certainly the lawyer Members are aware...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Have you prescribed any time limit for this procedure to be followed?

SHRI P. CHIDAMBARAM: The court will dispose of the bail application.

SHRI VARKALA RADHAKRISHNAN: It will go on indefinitely.

SHRI P. CHIDAMBARAM: How can the court go on indefinitely? The court has to hear and pass an order. I cannot prescribe time limit for courts. That is never accepted.

MR. CHAIRMAN: Mr. Radhakrishnan, you can have your say afterwards.

SHRI P. CHIDAMBARAM: Sir, whatever he wants to say, he can say afterwards and I will do my best to clarify.

Sir, as hon. Members are aware, there are three kinds of presumptions in the Evidence Act, namely 'may presume', 'shall presume' and 'conclusive proof'. 'May presume' means that the courts may or may not presume. In the second case of 'shall presume', although the word reads 'shall presume', the meaning of that is that if certain facts are proved, then there is an obligation upon the other side to show contrary facts to rebut any presumption that may be drawn, what we call, the adverse inference. All it means in common language is 'adverse inference'. If some fact is proved, then there is an adverse inference and then the other party against whom the adverse inference is drawn is obliged to let in evidence to rebut the presumption. So, it puts both on the same footing, but prosecution has the first duty, the defence has the second duty to rebut the presumption.

What we are saying is, if finger prints of the accused are found or if any other definitive evidence like DNA report, blood stains etc., which suggests the involvement of the accused in the offence, are found at the site of the offence, if from the crime scene, I lift finger prints, I lift blood stains or if I have DNA report...(*Interruptions*)

SHRI GURUDAS DASGUPTA (PANSKURA): It is not mentioned.

SHRI P. CHIDAMBARAM: That is all right. Courts are there. We are not deciding any case here.

If definitive evidence suggesting the involvement of the accused in the offence are found at the site of the offence, at the crime scene you pick up evidence which unmistakably points to the accused or if arms or explosives are recovered from the possession of the accused, unless the contrary is shown, the court will presume and the contrary can be shown that the accused can say that he was not there, these are not his finger prints, he was elsewhere etc. He can show evidence, but this is very important because otherwise in most cases the defence will stay silent. Usually, in terrorist cases, either the terrorist commits suicide or is killed. It is a rare case where a terrorist is captured alive like Mohammad Ajmal Amir. [R25] [r26]The accessories and abettor get away. We all know the Rajiv Gandhi case, many accused simply got away. Many of the accused in the lower order got away because they decided to remain silent and the court held that the evidence does not prove their guilt beyond reasonable doubt. So, some presumptions have to be drawn. We have very carefully drafted this section. The presumptions to be drawn are from rather strong evidence, finger print, definitive evidence or seizing arms and explosives. These are the matters which point to the accused and then the accused has a duty to enter the box or let an evidence to say that I am giving contrary evidence.

Sir, these are the principal amendments we are making. One important safeguard I am making is that today the Executive registers the case, the Executive arm investigates the case and the Executive arm grants sanction for prosecution. So, what we are saying is the let the Executive arm register the case, let the Executive arm investigate the case, but before you sanction prosecution, the evidence gathered in the investigation must be reviewed by an independent authority. The independent authority

must make its recommendation and only acting on that recommendation you can sanction prosecution. Therefore, there is a clean sanction filter which will filter out any case where the evidence does not warrant the prosecution of the accused.

SHRI VARKALA RADHAKRISHNAN : What about the onus of proof?

SHRI P. CHIDAMBARAM: I will clarify all that when he speaks. How can I answer each question now?

Therefore, we have introduced an important safeguard that prosecution cannot be launched without a filter, without a legally trained mind applying its mind to the evidence gathered and then saying yes, this is a fit case of prosecution or this is not a fit case of prosecution.

These are the broad features of this Bill. As I said in the opening, we have tried to balance various points of view. I respect every point of view. But I cannot accept one and reject another at this stage. We have tried to balance it. We have taken into account views expressed by human rights activists, lawyers, jurists, etc. We have also taken into account views expressed by people who want our laws to be strengthened to fight terror. We have put together a Bill which, I think, balances the interest.

My request is, please debate it thoroughly; I will do my best to answer every question. My colleague, Mr. Kapil Sibal, has offered to intervene in the debate and explain any aspects of the Bill. We will do our very best to satisfy your apprehensions. But at the end of the day, my appeal to you with folded hands is let us pass these two Bills and whatever improvements have to be done, we can revisit the Bills and make the improvements in course of time.

MR. CHAIRMAN : Motions moved:

> "That the Bill to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organizations and for matters connected therewith or incidental thereto, be taken into consideration. "

> "That the Bill further to amend the Unlawful Activities (Prevention) Act, 1967, be taken into consideration."

श्री लाल कृष्ण आडवाणी (गांधीनगर): सभापति महोदय, इस बार का सत्र 10 दिसम्बर को शुरू हुआ। 10 तारीख को पूर्व प्रधान मंत्री को श्रद्धांजलि देने के बाद सदन स्थगित हो गया था, स्वाभाविक था कि 11 तारीख को सदन की कार्यवाही औपचारिक रूप से वास्तव में शुरू हुई । पहले दिन ही हमने मुम्बई की घटनाओं पर चर्चा की। पूरे सदन ने एक स्वर से सारी दुनिया को यह बताया कि जहां तक आतंकवाद की चिंता का सवाल है, यह सदन जो देश का प्रतिनिधि है, वह एक है। मैंने अपनी पार्टी की ओर से और एनडीए की ओर से जो कुछ कहा, उसे दोहराते हुए मैं अपनी बात शुरू कर रहा हूं। जहां तक इस आतंकवाद की चिंता का सवाल है, सरकार इस चिंता पर विजय पाने के लिए जो भी कदम उठाएगी, जो हमें सही लगते हैं, आवश्यक लगते हैं, तो मेरा दल और एनडीए उसका समर्थन करेंगे।[R27]

14.10 hrs. (Mr. Speaker *in the Chair)*

इसके कारण भी और आज जो दो विधेयक पेश किये गये हैं, जिनमें जो कमियां मुझे दिखाई देती हैं, उनका उल्लेख मैं करूंगा। लेकिन मैं आरम्भ में ही कहना चाहूंगा कि मैं सिद्धांततः इन दोनों विधेयकों का समर्थन करता हूं। अभी मैंने माननीय गृह मंत्री जी को यह कहते हुए सुना कि हमारा अगला सत्र फरवरी में होगा। मुझे लगा कि क्या यह सरकार के लिए भी अच्छा नहीं होता कि जो अलग-अलग व्यू-पाइंट्स हैं जिनका उल्लेख करके आपने यह बिल बनाया है तथा सदन और देश के लिए भी अगर इस विधेयक को भी हम स्टेंडिंग कमेटी को भेजते, यह निर्देश देते हुए कि उनको फरवरी महीने से पहले सारी चर्चा और विचार-विमर्श, जिन-जिन लोगों से सलाह करनी है, उसको लेकर हमारे पास आयें। आपने स्वयं कहा कि यह महत्वपूर्ण विधेयक हैं । हमने जो स्टेंडिंग कमेटीज बनाई हैं वे इस उद्देश्य से बनाई हैं कि महत्वपूर्ण विधेयक स्टेंडिंग कमेटी के पास जाएं ठीक प्रकार से उनके सब पहलुओं पर विचार करके और खासकर ऐसा विधेयक जिसमें शासन और प्रमुख विरोधी दल, दोनों सिद्धांततः एकमत हैं तो इसमें कोई दिक्कत नहीं होनी चाहिए थी। मैंने इसके बारे में पहले आग्रह नहीं किया क्योंकि मुझे कभी-कभी संदेह होता था कि यह सत्र अंतिम सत्र न हो । लेकिन जब ऑफिशियली आज कहा गया कि फरवरी के माह में हम फिर मिलेंगे तो मुझे लगा कि अच्छा होगा अगर अभी भी शासन इस पर विचार करे और इस सदन में आज चार या छह घंटे में इसे पारित कराने के बजाए स्थायी समिति के पास भेजा जाए और जिसमें अलग-अलग लोगों से विचार भी ले लें। इस पर सिद्धांततः हम सहमत हैं। एनडीए और आप सहमत हैं। कुछ रिजर्वेशन्स हो सकते हैं, उसके बारे में मुझे नहीं पता। मेरे जो रिजर्वेशन्स हैं मैं उनका उल्लेख करूंगा, वे कुछ कमियों को लेकर हैं मगर सिद्धांततः आपत्ति नहीं है, न फैडरल एजेंसी पर और न ही आप जो एंटी टैरर कानून लाए हैं, उसके बारे में। लेकिन यह शासन का अधिकार है, शासन निर्णय करे, लेकिन मैं सुझाव के रूप में अपनी बात आपके सामने रखता हूं।

मुझे आज संतोष है। संतोष इस बात का है कि लगभग 10 साल तक जो स्टेंड सरकार ने लिया और जब विपक्ष में थे, तब भी उन्होंने वही स्टेंड लिया। यह आज की बात नहीं है। अचानक 10 साल के अंत में उन्होंने अपना स्टेंड मूलतः बदला है। मूलतः इस बात में बदला है कि जिस समय प्रीवेंशन ऑफ टैरेरिज्म एक्ट हम लाए थे, पहले आर्डिनेंस के रूप, फिर विधेयक के रूप में । जब विधेयक राज्य सभा में पास नहीं हुआ तो जाइंट सेशन के सामने, ऐसा नहीं है कि उस समय विपक्ष जो था वह आतंकवाद का मुकाबला करने के विरूद्ध था; नहीं, हम आतंकवाद को खत्म करने के पक्ष में थे और आप भी। दोनों आतंकवाद को समाप्त करना चाहते थे। लेकिन आपका मत था कि जो आज कानून है वह आतंकवाद का मुकाबला करने के लिए पर्याप्त है, जबकि हम इस मत के थे कि यह पर्याप्त नहीं है। हमने यह बात न केवल देश के भीतर कही बल्कि हमारे उस समय के प्रधान मंत्री जी ने अमरीका में भी जाकर वह बात अमरीका को 9/11 से भी पहले कही कि आतंकवाद की जो काली विभीषिका है और उनको बताया कि हमें कितनी तकलीफ

हुई है और हमको तकलीफ इसलिए हुई है कि हमारे लिए आतंकवाद एक युद्ध (वार) का सब्सीटयूट हमारे पड़ोसी देश ने बना दिया है।[r28]

अध्यक्ष महोदय, पड़ोसी देश ने हमारे साथ तीन-तीन युद्ध किए। जब इन युद्धों में उसे सफलता नहीं मिली, तब उसने वर्ष 1971 के युद्ध के बाद, जब वहां सैनिक शासन हुआ, उसके बाद योजनापूर्वक प्रोक्सी वार की नीति आतंकवाद के माध्यम से अपनाई। इस प्रयोग में सबसे पहले पाकिस्तान ने पंजाब को चुना और फिर जम्मू-कश्मीर तथा फिर सारे देश में आतंकवाद फैलाया। अस्सी के दशक के शुरूआत से ही हम इस समस्या का सामना कर रहे हैं। अमरीका में आतंकी हमला वर्ष 2001 में हुआ। हमारे प्रधानमंत्री ने अमरीकी कांग्रेस के सामने यह बात कही कि अमरीका यह न समझे कि वह चाहे विश्व के दूसरे देशों से दूर है, इसलिए शायद आतंकवाद से बचा रहेगा। 9/11 की घटना हुई और शायद आतंकवाद के इतिहास में इस प्रकार का भयंकर कांड कभी नहीं हुआ तथा भगवान न करे कि ऐसा कभी दोबारा हो। उस भयंकर कांड में आतंकवादियों ने चार हवाई जहाज हाईजैक करके उनका मिसाइल्स के रूप में प्रयोग किया। उसके कारण अमरीका हिला, दुनिया के दूसरे देश भी हिल गए। यहां तक कि यूनाइटेड नेशंस सिक्योरिटी काउंसिल ने 28 सितम्बर, 2001 को 1373 प्रस्ताव पारित किया, जिसमें उन्होंने दुनिया के सब देशों से कहा कि आतंकवाद भयंकर समस्या है और सामान्य अपराध के लिए जो कानून बने हुए हैं, वे उसके लिए पर्याप्त नहीं हैं, इसलिए आतंकवाद के लिए विशेष कानून बनाए जाएं। मैं इस बात का जिक्र इसलिए कर रहा हूं, क्योंकि मुझे आपके द्वारा प्रस्तुत बिल, अन लॉ फुल एक्टीविटीज (प्रिवेंशन) अमेंडमेंट बिल, 2008 को देख कर आश्चर्य हुआ। वर्ष 2008 में आप अनलॉफुल एक्टीविटीज (प्रिवेंशन) बिल के एक्ट के प्रिएम्बल को अमेंड कर रहे हैं। मुझे याद नहीं कि पहले कभी किसी ने प्रिएम्बल को अमेंड किया हो। ऐसा हो भी सकता है, लेकिन मुझे याद नहीं है। इतना मैं जरूर कहूंगा कि वर्ष 2001 में जो सलाह यूनाइटेड नेशंस सिक्योरिटी काउंसिल ने दुनिया को दी और जिसका पालन दुनिया के प्रायः सभी देशों अमरीका , इंग्लैंड , जर्मनी आदि ने किया। मेरा बहुत से देशों में जाना हुआ और सभी देशों ने कोई न कोई कानून बनाया , और अगर मैं गलत नहीं हूं तो पाकिस्तान ने भी कानून बनाया था। हमने जब बनाया, उस समय आप विपक्ष में थे और आपने इस प्रकार से हम पर हमला किया मानो हमने कोई अपराध कर दिया हो। हमने अगर प्रिवेंशन आफ टेरोरिज्म एक्ट बनाया, तो क्या हमने अपराध किया था। एक रेयर प्रावधान भारत के संविधान में है कि अगर लोक सभा और राज्य सभा के सदस्यों के मत में अंतर हो तो निर्णय ज्वायंट सैशन बुलाकर किया जाएगा। भारत के इतिहास में ज्वायंट सैशन शायद दो बार या तीन बार बुलाया गया है। आज मैं देखता हूं कि अचानक सरकार को लगता है कि एक विशेष नए कानून की जरूरत है, जबकि पिछले आठ-दस साल इस कानून को बनाने की बात नहीं सोची। मैंने कहा कि मुझे संतोष है, लेकिन मैं खुशी प्रकट नहीं कर सकता हूं। आखिर एक कहावत है कि सुबह का भूला शाम को घर आ जाए, तो उसे भूला नहीं कह सकते। लेकिन अगर सुबह का भूला शाम को घर आ जाए और सुबह तथा शाम के समय के बीच में अनर्थ हो जाए, उस भूल के कारण बहुत ज्यादा नुकसान हो जाए, तो मैं उस व्यक्ति को भूला जरूर कहूंगा। आपने एक प्रकार से इस बिल को प्रस्तुत करके और उसकी वकालत करके तथा यह कह कर कि आज ही इसे पास करना है, एक प्रकार से आपने अपनी गलती स्वीकार की है और आपको स्वीकार करना भी चाहिए कि आप दस साल पहले गलत थे। स्वयं आपने अनलॉफुल एक्टीविटीज (प्रिवेंशन) अमेंडमेंट बिल के क्लाज़-2 में यूनाइटेड नेशंस सिक्योरिटी के बारे में लिखा है।[r29]

हमने देश की आवश्यकताओं को ध्यान में रखते हुए 'पोटा' पास किया था। आपने उसे मैंडेटिड माना। एक प्रकार से यूएन सिक्योरिटी काउंसिल का मैंडेट है।

> "Whereas the Security Council of the United Nations in its 4,385th meeting adopted Resolution Noâ€¦so and so, etc., etc.,.. and whereas.. so and soâ€¦and whereas the Central Government in exercise of its powers conferred by section 2 of the United Nations Security Council Act has made the prevention and suppression of terrorism implementation of Security Council Resolution Order."

You have quoted all the Resolutions of the United Nations Security Council adopted in respect of terrorism. बहुत अच्छा किया है। मैंने कहा कि मुझे इससे संतोष है लेकिन मैं कहूंगा जैसे कुम्भकरण को लंबी-लंबी नींद आती थी वैसे ही आप 7-8 साल की नींद के बाद जगे हैं। ...(व्यवधान)शेम की कोई बात नहीं है। मैं चाहता हूं कि आप स्वीकार करते कि इस बात में गलत थे। मैं टाइम्स ऑफ इंडिया देख रहा था जिस की कटिंग मुझे किसी ने दी है। "This is old wine in new bottle." "UPA has returned to POTA." These are the headings. आप चाहे कुछ भी इन्कार करें। मैं उस समय मानता था कि हम बिना स्पैशल कानून के टैररिज्म का सामना नहीं कर सकते थे। मैं नहीं जानता कि मेरे वामपंथी साथी इस पर क्या कहने वाले हैं। उन्हें भी समझना चाहिए। मुझे स्वयं अनुभव है कि आपके मुख्यमंत्री कई बार मुझे कहते थे कि जब तक इस मामले में देश कठोर नहीं होगा, तब तक समस्या बड़ी भयंकर रहेगी। ...(व्यवधान)

श्री गुरूदास दासगुप्त : आडवाणी जी, आप पहले से मालूम मत करिए कि हमारी ओपीनियन क्या है? हमारी स्ट्रेट जैकिट है। POTA is the solution.

MR. SPEAKER: All right, you will get your chance.

SHRI GURUDAS DASGUPTA : BJP and Congress also vote together.

SHRI L.K. ADVANI : Do not distract me. गुरुदास दासगुप्त जी बीच-बीच में इंटरवैंशन करके अच्छा करते हैं। आजकल के अखबारों में छपेगा कि Left and BJP vote together. लेकिन हम उसकी परवाह नहीं करते।

SHRI BASU DEB ACHARIA : When there will be voting, then they will cover that BJP and Congress vote together.

SHRI L.K. ADVANI : Now I do not believe in political untouchability as you believe. I do not. आप अगर सही बात करेंगे तो मैं उसका समर्थन करूंगा। आप गलत बात करेंगे तो चाहे आप मेरे साथ होंगे तो भी मैं विरोध करूंगा। I do not believe in political untouchability. You may believe in it. मैं दुनिया भर के उदाहरण दे सकता हूं।

SHRI GURUDAS DASGUPTA : I will support your stand for sending it to the Standing Committee.

SHRI L.K. ADVANI : I am grateful to you. At least, in this matter you have shed your political untouchability.

यह बात बार-बार कही जाती है कि इसका इसलिए विरोध किया गया कि उसका दुरुपयोग हो सकता है। क्या कोई कानून बना है जिस का दुरुपयोग न हो सके। बहुत सारे साधारण कानून हैं जिनका बहुत दुरुपयोग होता है। इस बात को लॉ कमिशन ने बड़े प्रभावी रूप से लिखा है। उन्होंने सुप्रीम कोर्ट की जजमेंट राजस्थान वर्सिज यूनियन ऑफ इंडिया को कोट किया है। The Moily Commission had quoted that as part of a Law Commission Report. Law Commission's Report is there on Prevention of Terrorism Bill. जिस में उन्होंने कहा है

> "It must be remembered that nearly because power may sometimes be abused, it is not ground for denying the existence of power. The wisdom of man has not yet been able to conceive of a Government with power sufficient to answer all the legitimate needs and at the same time incapable of mischief.[m30]"

मतलब लैजिटिमेट नीड है कि टैररिज्म पर विजय प्राप्त करनी चाहिए।

कोई ऐसी सरकार नहीं है और इसमें कोई बुद्धिमानी नहीं है कि सरकार को उसके खिलाफ अधिकार भी दे और साथ-साथ उसका दुरुपयोग न हो सके, इसका भी प्रबंध करे। सेफगार्ड प्रोवाइड करने चाहिए। जब हमने प्रिवेंशन ऑफ टेररिज्म एक्ट बनाया था तब मैंने अपने सब अधिकारियों को कहा कि सुप्रीम कोर्ट में टाडा के बारे में जो आपत्तियां की गई हैं कि इस तरह से दुरुपयोग हो सकता है इसलिए सेफगार्ड इनकारपोरेट करो और वो किए गए क्योंकि यह टेररिज्म और डिसरप्टिव एक्टिविटी के खिलाफ था। आपने भी कुछ किए हैं, बहुत अच्छा किया है। मैं इससे इंकार नहीं करूंगा लेकिन बेसिकली यह सोचना कि क्योंकि किसी लॉ का दुरुपयोग हो सकता है इसलिए यह पास नहीं होना चाहिए, यह सरासर गलत है। आज आपने यह बिल लाकर स्वीकार किया है कि हां, हमसे यह गलती हुई है लेकिन कहने के लिए तैयार नहीं हैं। हिन्दुस्तान में टेररिज्म पर विजय प्राप्त करने के लिए स्पेशल लॉ जरूरी है। लेकिन स्पेशल लॉ में क्या होना चाहिए और क्या नहीं होना चाहिए, देखना होगा। आप जो बिल लाए हैं मैं उसमें इनएडीक्वेसिस और मेरी दृष्टि में जो होना चाहिए, बताऊंगा। उदाहरण के लिए मैं बताना चाहता हूं कि आपने कहा पुलिस अफसर के सामने कोई कन्फेशन हो तो उसे स्वीकार नहीं करना चाहिए। यह एडमिसिबल नहीं है क्योंकि स्वीकार तो होगा नहीं। कोई अपराधी स्वयं कन्फेस करता है और कहता है कि मैंने मर्डर किया है, It is not conclusive evidence. यह कोर्ट को डिसाइड करना है कि उसके साथ कोरोबोरेटिव एविडेंस कितना है। यह भी अधिकार है कि कोई कहे कि मैं कन्फेस करता हूं तो रिट्रेक्ट करने का भी अधिकार है। वह कोर्ट के सामने कहे कि मैं रिट्रेक्ट करता हूं। आप स्वयं वकील हैं और आप यही सब बातें ज्यादा जानते हैं। मैंने वकालत पढ़ी तो है लेकिन कभी प्रेक्टिस नहीं की लेकिन इतना मैं जानता हूं कि पुलिस अफसर के सामने कन्फेशन को क्यों एडमिसिबल एविडेंस किया। अभी एक आतंकवादी पकड़ा गया है, क्या उसके लिए और एविडेंस लाएंगे? उसकी एविडेंस एडमिसिबल नहीं होगी क्योंकि पुलिस अफसर या ज्यूडिशिएल अफसर या ज्यूडिशियल मजिस्ट्रेट के सामने नहीं किया गया है? हां, यह प्रेस्क्राइब करना चाहिए कि इस लैवल का पुलिस अफसर होना चाहिए जिसके सामने हो तो वह एडमिसिबल एविडेंस होगी, it does not become conclusive evidence. यह कन्क्रीट केस है जो अभी आया है कि एक आतंकवादी पकड़ा गया। तुका राम ने बहादुरी की और उसे पकड़ा। वह सब कुछ बताने के लिए तैयार होगा तो भी साधारण लॉ के तहत एविडेंस एडमिसिबल नहीं है। इसलिए मैं लॉ कमीशन की ऑब्जर्वेशन कोट करना चाहूंगा। मैं इसे बहुत महत्वपूर्ण मानता हूं जिसमें 73वीं रिपोर्ट में कहा है।

Mr. Home Minister, I am sure you have read it. But even then I would like to draw your attention to it.

> "The act of terrorism by its very nature generates terror and a psychosis of fear among the populace. It is difficult to get any witnesses because people are afraid of their own safety and safety of their families. It is well known that during the worst days in Punjab even the judges and prosecutors were gripped with such fear and terror that they were not prepared either to try or to prosecute the cases against the terrorists. That is also stated to be the position today in Jammu and Kashmir and this is one reason which is contributing to the enormous delay in going on with the trials against the terrorists. In such a situation, insisting upon independent evidence or applying the normal peacetime standards of criminal prosecution may be impractical."

These provisions have been included in most laws prepared all over the world to deal with terrorists. यह सोचना कि यह लॉ इतना स्ट्रिंजेंट इसलिए बना रहे हैं क्योंकि माइनोरिटी इसके खिलाफ है। आप इस प्रकार से कह कर माइनोरिटी को बदनाम कर रहे हैं। This is a law against terror; this is a law against terrorists that we enacted and which you are also enacting today. [r31]

You cannot now claim कि वह जो था, वह कम्युनल लॉ था और यह सेक्युलर लॉ है, यह तो नहीं कहोगे, ऐसी मैं उम्मीद करता हूं। आपने देश का बहुत नुकसान किया है by trying to see laws against terror through the prism of majority and minority. I said it that day and I repeat it today. मैं फिर से रिपीट करता हूं कि तब जब हिंदुस्तान का विभाजन हुआ था हिंदुस्तान में यहां की कांस्टिट्युंट असैम्बली, अपने संविधान पर विचार करने बैठी, । यह विभाजन कांग्रेस नहीं चाहती थी, देश नहीं चाहता था और वह विभाजन इस आधार पर हुआ कि कहां हिन्दू बहुमत है और कहां मुसलमान बहुमत है और उन परिस्थितियों में पाकिस्तान ने अपने को थियोक्रेटिक स्टेट डिक्लेयर किया। हिन्दुस्तान ने अगर सेक्युलरवाद अपनाया तो यह स्वयं में एक ऐसी बात है कि जिसे दुनिया का कोई देश भूल नहीं सकता और हिन्दुस्तान भी नहीं भूल सकता और बहुत उचित किया, उसके आधार पर हमने साठ साल देश को चलाया। लेकिन फिर भी इतनी देर हर चीज को इस चश्मे से देखना, इससे न देश का भला है और न अल्पसंख्यकों का भला है। आप उनका भी बहुत नुकसान कर रहे हैं। इसलिए इस चश्मे से मत देखो। इस चश्मे को एक तरफ रखकर इन्डिपैंडैन्टली देखो कि टैररिज्म का मुकाबला करने के लिए कैसे-कैसे कानून जरूरी हैं। साधारणतः कोई इंटरसैप्शन ऑफ मैसेज, टेलिफोन टॉक वह एडमिसिबल एविडैन्स नहीं है। हमने प्रावधान बनाये, जिसमें Interception of telephonic talks and messages coming from, say, abroad to here, to the terrorist concerned, that became an admissible evidence. दे सकते हैं, मैं चाहूंगा कि गृह मंत्री, जो ढेर सारे प्रावधान थे relating to interception of messages. उन्हें भी इस नये कानून में समाविष्ट करें। उसकी एडिमिसिबिलिटी को स्वीकार करें। उसमें प्रावधान था कि वह एडमिसिबल होगा, इंटरसैप्शन ऑफ कम्युनिकेशन। मैं चाहूंगा कि जिस प्रकार से कंफैशन रिपोर्ट पुलिस ऑफिसर्स एडमिसिबल एविडैन्स होना चाहिए, वैसे एडमिसिबिलिटी ऑफ इंटरसैप्टिव इंफॉर्मेशन भी आनी चाहिए।

अध्यक्ष जी, मैं जानता हूं कि कानून का दुरुपयोग होता था, टाडा का भी दुरुपयोग होता था। मैं इनकार नहीं करूंगा और एक स्टेज पर मुझे याद है, इस समय चिदम्बरम जी चले गये, चिदम्बरम जी टाडा लाये थे। वह उस समय भी मिनिस्टर ऑफ स्टेट, होम थे, जब टाडा आया था और मुझे याद है कि उसका दुरुपयोग कैसे-कैसे होता था। पुलिस वाले को सुविधाजनक लगता था कि इस अपराधी को इस एजिटेशन को, चाहे वह ट्रेड यूनियन का एजिटेशन हो, मैं गुजरात में गया था, जहां पर फारमर्स एजिटेशन के खिलाफ, यहां हमारे दोनों साथी बैठे हैं और पहली बार अगर मैं टाडा के खिलाफ बोला तो उस फारमर्स कांफ्रैन्स में बोला, जहां फारमर्स के एक एजिटेशन को सप्रैस करने के लिए वहां पर टाडा का उपयोग किया गया। लेकिन किसी स्टेज पर तभी हमने यह नहीं कहा कि टाडा को स्क्रैप करो, कभी नहीं कहा। टाडा का दुरुपयोग हो रहा है, इसलिए हमेशा हम इसका विरोध करते थे। लेकिन किसी स्टेज पर टाडा खत्म करो, यह हमने नहीं कहा। मैं उम्मीद करता था कि आप भी हमें यह कहेंगे कि ठीक है, पोटा बनाओ, कोई बात नहीं, लेकिन दुरुपयोग मत करना, ऐसा कहते और अगर कहीं दुरुपयोग होता है तो आप उसे रोकते, उसकी आलोचना करते। लेकिन आपने लगातार अपनी एक थ्योरी बनाई कि terrorism is a law and order issue. स्टेट को करने दो, केन्द्र की जरूरत नहीं है। I can quote Shrimati Sonia Gandhi on this and I can also

quote the Home Minister, Shri Shivraj Patil, who is no longer there as Home Minister, on this. But everyone from Prime Minister to Home Minister to the Congress Party President has taken the stand that the present set of laws is totally adequate to deal with terrorism.[SS32]

And let them deal with it as law and order is a State issue. हम उसे पूरा सपोर्ट करेंगे। This is the basic flaw that has been your thinking till today. Today, suddenly when you have staged a 'U' turn, मैं तो बहुत खुश हूं। नेचुरली खुश हूं क्योंकि मैं लगातार आरग्यू करता था क्योंकि कानून हमने बनाया था और जिस कानून को समाप्त करना यूपीए के कार्यक्रम में in respect of Terrorism, लगभग एकमात्र चीज थी कि पोटा को हम खत्म करेंगे। It was the only thing that finds mention in the UPA's Common Programme.

In fact, I have with me a quotation from the Prime Minister. On September 3, 2005, Prime Minister Mr. Manmohan Singh at Chennai had said that :

> "His Government had fulfilled its promise to repeal the Prevention of Terrorism Act, which has caused unnecessary harassment to every section. Our Government had made a commitment to repeal POTA, and we have faithfully fulfilled the promise made at the time of last Lok Sabha elections."

होम मिनिस्टर साहब, आपने प्रधान मंत्री की इतनी बड़ी गर्वोक्ति को बिल्कुल नकार दिया। ...(व्यवधान)

हमने इतना बड़ा वचन पूरा किया और आपने उनको एक पूकार से उस सारे को निरस्त कर दिया। क्यों? आप इस बात पर सोचिए। Mr. Home Minister, it is not easy just to nod your head and get away with it. It is not only because of Mumbai. मुम्बई से पहले जो घटना थी, वह इतनी बड़ी नहीं थी । मैं उस पर कहना चाहूंगा। मैं मन में सोचने लगता हूं कि क्यों, आखिर मुम्बई में ही दो साल पहले लोकल ट्रेन्स पर हमला हुआ था। वह हमला भी कोई कम भयंकर नहीं था और इसके बाद जो पहला वक्तव्य बाहर से निकला था, वह यह था कि इसमें पाकिस्तान का हाथ है और उसके थोड़े ही समय बाद अचानक प्रधान मंत्री जी कहते हैं कि पाकिस्तान तो स्वयं ही आतंकवाद का शिकार है, victim of terrorism. पाकिस्तान में भी कुछ हमले हुए हैं, वहां के राष्ट्रपति पर तथा दूसरे लोगों पर हमले हुए हैं। But to describe Pakistan as a victim of terrorism, and that too by the Prime Minister and two days later to announce that a joint-mechanism between India and Pakistan be set up to fight terrorism, I was shocked and amazed. हमने कहा कि इतने साल हमको दुनियाभर को विश्वास दिलाने में लगे कि हमारे यहां जो आतंकवाद है, वह कोई होमग्रोन नहीं है, It is cross-border terrorism. और वे मानने लगे थे कि हां, यह सही है। अभी-अभी आकर दो दिन पहले यह कहा गया कि "Pakistan is the epicentre of terrorism." ये जो इतने सारे परिवर्तन हुए हैं, मैं मानता हूं कि कुछ तो सच्चाई है जो किसी को भी देखने में आएगी और दूसरी बात है कि देश में जैसा वातावरण मुम्बई पर उस हमले के बाद पैदा हुआ, फर्क यह है कि इससे पहले के जो विस्फोट होते थे, वे दो-चार घंटों के लिए होते थे। लेकिन इस बार तीन दिन तक यह सब लगातार चलता रहा और उसमें टेलीविजन चैनल्स ने जिस पूकार से उसे दिखाया, हालांकि वह एक अलग बात है कि उसमें क्या दिखाना चाहिए और क्या नहीं दिखाना चाहिए या कोई उसका कोड बनना चाहिए, मैं इससे सहमत होते हुए भी समझता हूं कि टेलीविजन ने एक पूकार से बहुत बड़ी देश की सेवा की कि उनको स्वयं लगा कि एक-एक व्यक्ति, एक-एक नागरिक जो टेलीविजन देख सकता था, He felt outraged कि हमारे यहां क्या हो रहा है? यह कैसे हो रहा है और क्यों हो रहा है? टेलीविजन ने वह चिंता पैदा की और इसी के परिणामस्वरूप लोगों में गुस्सा पैदा हुआ। लोगों ने जाकर किसी एक पार्टी के खिलाफ, एक सरकार के खिलाफ अपना गुस्सा ज़ाहिर नहीं किया बल्कि पूरी पोलिटिकल कम्युनिटी के खिलाफ अपना गुस्सा ज़ाहिर किया। यह इसीलिए क्योंकि आपने दस साल तक इस बात से इंकार किया कि कोई स्पेशल लॉ नहीं बनाएंगे।[r33]

और स्पेशल लॉ नहीं बनाना और अगर स्पेशल लॉ किसी ने बनाया है, तो उसे खत्म करना, एक पूकार से सरकार ने आर्टिकल ऑफ फेथ बना दिया। इसका जो नुकसान हुआ,उसे हम लोगों को उस दिन भुगतना पड़ा। लोग यह समझने लगे कि ये सब लोग सुरक्षित हैं, किसी के साथ कमांडोज़ हैं, किसी के पास यह है, किसी के पास वह है, और आम नागरिक दुखी है। एक पूकार से उनका गुस्सा जायज़ है। यह गुस्सा हमारी सरकार के स्टैंड के कारण है कि किसी कानून की जरूरत नहीं है, आर्डिनरी लॉज़ पर्याप्त हैं, It is a State issue, essentially a law and order issue. It is not a law and order issue. it is a very special evil. और जिस इविल ने दुनिया भर को इफलिक्ट किया और आज भी किया है। मैं आपको बताऊं कि हमने कितने कानून बनाने हैं? अमरीका ने कितने कानून बनाये हैं, अमरीकन पैट्रीयट एक्ट नहीं, अनेक बनाये हैं। होम सिक्यूरिटी डिपार्टमेंट बनाया है। मैं इन बातों में अभी नहीं जाना चाहता। जरूरत नहीं है कि जब हम बैठकर डिसकस करेंगे तो सोचेंगे कि क्या करना है? बेसिकली हम लोगों को इस बात को स्वीकार करना चाहिये कि आज अल कायदा जैसे टैरिरिस्ट आर्गनाइजेशन्स, उनका सब से बड़ा दुश्मन, अगर कोई है तो वह भारत नहीं है, उनकी नजरों में अमरीका है, दूसरे नम्बर का इजराइल है और शायद हमारा नम्बर तीन हो सकता है, बम नहीं जानते। उनकी नजरों में सब से बड़ा दुश्मन अमरीका है, भारत नहीं है। लेकिन अमरीका सब से बड़ा दुश्मन होते हुये भी 9/11 में उन्हें इतनी बड़ी सफलता मिली कि उसके बावजूद वहां कोई छोटी-मोटी घटना तक नहीं हुई जब कि यहां पर 2004 के बाद से न जाने कितनी ऐसी घटनायें हुई हैं। मैं अगर गिनाना चाहूं तो ढेर सारी गिना सकता हूं। मैं छोड़ देता हूं। I do not want to hammer the same point today....(व्यवधान)

अध्यक्ष महोदय : अगर आप लोग भाषण में बोलेंगे तो ठीक नहीं होगा।

SHRI L.K. ADVANI : I do not want to go into it. I would only like to say कि आतंकवाद का मुकाबला करने के लिये लीगल फ्रेमवर्क चाहिये जिसकी दिशा में एक कदम आज उठाया गया है। उसमें भी मैंने बताया कि इसमें मुझे जो इनएडीक्वेसीज़ लगती हैं, in respect of confession लगती हैं। मुझे यह लगता है कि इंटरसैप्टेड इनफार्मेशन के बारे में जो प्रावधान थे, पोटा में जो थे, आप देख लीजिये, वे अनेक और सब के सब हैं। और इसकी इंटरसैप्टेड इनफोर्मेशन एडमिजिब्लिटी और प्रीजम्पशन ऑफ आफिस के बारे में आपने जो कुछ कहा है , मैं उससे ज्यादा डिसएग्री नहीं करता हूं। लेकिन मैं यह जरूर कहता हूं कि कुल मिलाकर अमरीका शासन और अमरीका समाज - दोनों का एटिट्यूड बहुत इम्पार्टेंट है। हिन्दुस्तान में भी सरकार और समाज तथा सरकार और देश के एटीट्यूड की बहुत इम्पार्टेंस है। मैं एटीट्यूड की बात जब कहता हूं तो 2001 में जो घटना हुई थी लेकिन उसके परिणास्वरूप 2008 में आज भी अगर कोई अमरीका जाता है तो जो आदमी एअर ट्रेवल करता है, उसकी पूरी जांच होती है, अच्छी खासी जांच होती है कि जुर्राब खोलो, जूते खोलो, यह खोलो, वह खोलो। अगर ऐसी स्थिति यहां हो तो क्या हमारा देश इस बात को स्वीकार करेगा? दिक्कत करेगा,

मैं देश की बात कर रहा हूं और मैं जानता हूं कि आज तक क्यों ऐसा हुआ? भारत की संसद पर 13 दिसम्बर, 2001 को हमला हुआ। मुकदमे का फैसला 2002-03 में पूरा हो गया। अपराधी पकड़े गये, सजा हो गई और जिसे फांसी की सजा हुई, उस ने सुप्रीम कोर्ट में अपील की, एंडोर्स किया लेकिन इम्पलीमेंट नहीं हुआ। क्यों नहीं हुआ, कोई लौजिक नहीं, कोई बात समझ में नहीं आती है। कुल मिलाकर ये बातें एक संदेश भेजती हैं कि सारे आतंकवादी समूह के खिलाफ कार्यवाही करने में देश ढीला-ढाला है You can get away with it. मैं एक प्रावधान और भी कहूंगा। जिस प्रावधान का रिकमेंडेशन मोइली कमीशन ने किया था, उसका जिक्र भी आपने किया है। मोइली कमीशन ने यह रिकमंड किया कि जो बैनड ऑरगेनाइजेशंस हैं, मोइली कमीशन में पैटीशन है। The Law Commission in its 173rd Report also recommended that memberships of banned organisations should be construed as a terrorist act. This is a very serious matter. Therefore, in our Prevention of Terrorist Activities Act we had incorporated that. It is a recommendation of the Law Commission.

Today, particularly before this Mumbai incident, with regard to the various incidents that took place in Jaipur, in Delhi, in Ahmedabad, it was said that it is home-grown terrorism now because it is SIMI mainly. This SIMI is a banned organisation, which in a way got away for a brief while because the Home Ministry failed to give the necessary evidence to the Tribunal. Subsequently the Home Ministry got it stayed and the ban was re-imposed. Today SIMI is a banned organisation even though Members of the Cabinet itself keep on defending it all the while. It is a very strange situation. Therefore, I would recommend that this recommendation of the Law Commission also should be reconsidered when you are thinking of all the inadequacies and shortcomings in the law.

By and large, I would once again say, it is no different from a war. It is a war that we are facing. To succeed in this war there has to be unity. Above all, there has to be a will to win this war. That will has been lacking. Today, if your two laws are an index to show that you have decided to turn a new leaf, to take a U-turn, I would be very happy.

I started thinking as to why the Government has changed its tune somewhat immediately after the Mumbai incidents. Some of the reactions that came immediately after Mumbai and then in the form of these two Bills, and the statements that have been made from the Government side, are different from what was being said earlier. First I am happy that no longer is it being said that an anti-terror law would be an anti-minority law. That is perhaps because you think that you are in power, therefore, it cannot be anti-minority.

Secondly, these terrorists selected three places. Why did they do it? There is a dimension to the Mumbai incidents which should be taken note of. The world must have taken note of it. They selected the Oberoi, they selected the Taj, they selected the Trident, which is adjoining the Oberoi. They were sure that in these five-star hotels there must be foreign nationals also. So, our attack should not be only on the Indians, it should identify foreign nationals also and attack them. Then they chose Nariman House. I do not know but I am told that one Minister of ours omitted to mention Nariman House. It was reported in the Press. I do not know. If it is so, it is unfortunate.

Nariman House was selected by them after having done surveillance that this is one place where people from Israel, or all Jews living in Bombay assemble. In fact, the Israeli Ambassador when he met me told that it was a Wednesday; if it had been a Friday, on Friday night on the eve of Saturday, which is their Kosher Day, if all the families in Mumbai had assembled there, the tragedy would have been much bigger, much larger.[KMR34]

[r35]

Foreign nationals were being targeted; Indians, of course, were targeted. So many people on the Chhattrapati Shivaji Terminus, coming from trains from all parts of the country, two terrorists with AK47 in their hands, went on mowing them down, killing everyone. The whole thing was horrible. Is it that we have woken up because it is not merely the people in India who think that India has become unsafe because of this soft attitude to terrorism, but the whole world thinks that India is now unsafe to the attack of terrorists? Is it this that has made us react in the present manner? I would think that the Security Council Resolution of 2001 was a very sound Resolution and those who followed it, did something in the interests of their own country, in the interest of humanity and the right step against terrorism. I am sorry that we should have been criticized because of following this particular UN Security Council Resolution in letter and spirit and enacting a special law to deal with terrorism.

With these words, I am grateful to you, Sir, for allowing me to initiate this debate.

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI E. AHAMED): With your kind permission, I want to give a clarification because it was I who represented India in the Security Council. ...(*Interruptions*)

MR. SPEAKER: His name was taken and he is entitled to give a clarification.

...(*Interruptions*)

SHRI L.K. ADVANI : I did not take any name. ...(*Interruptions*)

MR. SPEAKER: You did not take but it was quite audible to the hon. Members.

...(*Interruptions*)

SHRI E. AHAMED: It was a newspaper report. It is my duty to clarify the position. I, as a matter of fact, was only performing the duty, reading out the speech prepared by the Government of India. It is not my making. Of course I did contribute to the language. There, we did not mention any community or place – Taj, Trident – nothing we have mentioned. We have only mentioned two hotels, one cafÃ©, and railway station and public places. We did not refer about only Indians and foreigners. It was not with any deliberate intentions; if they construe like that, I am very sorry because as an Indian, it is my duty to defend every Indian and every foreigner in India. I did not just distinguish that. I may have differences somewhere but in this case we are all one. Therefore, there should not be any misunderstandings. I hope I had dispelled them with my clarifications.

THE MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF EARTH SCIENCES (SHRI KAPIL SIBAL): Thank you very much for giving this opportunityâ€¦.....(*Interruptions*)

रेल मंत्री (श्री लालू प्रसाद) : हिन्दी में बोलिये ना, हम लोग भी समझेंगे।

श्री कपिल सिब्बल : अध्यक्ष महोदय, सबसे पहले तो मैं आडवाणी जी का धन्यवाद करना चाहता हूँ कि उन्होंने सबसे पहले यह कहा कि सरकार जो दो विधेयक ला रही है, वे इनका समर्थन करते हैं। उसके लिए हम इनको मुबारकबाद देना चाहते हैं। जब आडवाणी जी बोल रहे थे तो मैं सोच रहा था कि आज एक नई शुरुआत होनी चाहिए। सारा देश हमारी बहस सुन रहा है। एक ऐसी शुरुआत होनी चाहिए जिससे लगे कि सारा देश इस बात पर इकट्ठा है कि जहां तक आतंकवाद की लड़ाई है, हम इकट्ठा लड़ेंगे और आज के दिन हम कोई राजनीतिक बात नहीं करेंगे। यह भी अपेक्षा उनसे थी, लेकिन मुझे बड़ा दुख हुआ ...(व्यवधान) मुझे बड़ा दुख हुआ कि आप हर बात पर दुनिया को यह संदेश देना चाहते हैं कि भारत कमज़ोर है, हम अपने लोगों की हिफ़ाज़त नहीं कर सकते और इसलिए सारे विश्व में फैला हुआ है कि भारत कमज़ोर है और यह सरकार ऐसी-वैसी है। आज के दिन जब हम बहुत अहम बहस कर रहे हैं..(व्यवधान)

MR. SPEAKER: Your leader has put the matter in such a high pedestal consistent with the demands of the situation. You pay respect to him at least. You listened to him with rapt attention and everybody is appreciating. Do not go on making running commentary on this.

श्री कपिल सिब्बल : आज के दिन मैं ज़रूर यह चाहता था कि आडवाणी जी उठकर कहें कि आज मैं कोई राजनीतिक बात नहीं करूँगा, इस विधेयक को पास करते हैं, राजनीति बाद में देखी जाएगी। ऐसे अवसर पहले भी कई बार आए और मैंने कई बार आडवाणी जी से अपेक्षा भी की। [h36] You never lived up to my expectation. â€¦ (*Interruptions*) You never. ...(*Interruptions*)

MR. SPEAKER: Kindly listen to him. He cannot speak according to your wishes only. Nobody can speak, for that matter. Therefore, you have to listen to each other. You have a right to criticize, of course.

...(*Interruptions*)

SHRI KAPIL SIBAL: But unfortunately you have not lived up to our expectation. मैं आपको याद दिलाऊं,, आपको सारी बातें मालूम हैं कि जब आतंकवादी अमृतसर से कंधार प्लेन लेकर गए, आपको याद है,...(व्यवधान) आपको याद होगा कि हमने एक ऐसा नज़ारा पहले कभी हिन्दुस्तान में नहीं देखा था।...(व्यवधान)

MR. SPEAKER: If the subsequent speakers from your Party are disturbed, then you should not tell me anything. Please do not do that.

श्री कपिल सिब्बल: मैं थोड़ा याद दिलाना चाहता था कि हमने ऐसा नज़ारा पहले कभी हिन्दुस्तान में नहीं देखा था। उस समय की सरकार का एक बहुत अहम् मंत्री तीन टेरेरिस्ट को कंधार में एस्कॉर्ट कर रहा है और उस समय पोटा लागू था, आपको मालूम है। वे तीन टेरेरिस्ट कौन थे, यह सबसे अहम् बात है - एक मौलाना मसूद अज़हर, दूसरा उमर शेख और तीसरा ज़रदार। आपको मालूम है कि वे उसके बाद पाकिस्तान गए और पाकिस्तान में जाकर मौलाना मसूद अज़हर ने एक आर्गनाइजेशन बनाई, जिसके वे सदस्य बने, उसे जैश-ए-मेहम्मद बोलते हैं। उसने यहां हमला किया, सदन पर जैश-ए-मोहम्मद द्वारा हमला हुआ। आपके रिहा करने की वजह से पार्लियामेंट पर हमला हुआ।...(व्यवधान) आप सच्चाई सुनिए।...(व्यवधान)

MR. SPEAKER: Do not record anything. Please take your seats.

*(Interruptions) â€¦ **

MR. SPEAKER: How can you expect that everyone will speak as per one's liking?

...(*Interruptions*)

अध्यक्ष महोदय: फिर बोलने की कोई जरूरत ही नहीं है। जब सहमत होंगे तो बहस की कोई जरूरत ही नहीं है।

...(व्यवधान)

अध्यक्ष महोदय: कृपा कर आप बैठ जाइए।

...(व्यवधान)

MR. SPEAKER: There will be differences of opinion. Please listen and reply. I earnestly appeal to all of you.

...(*Interruptions*)

अध्यक्ष महोदय: यह ठीक नहीं है।

...(व्यवधान)

MR. SPEAKER: Do not try to dictate.

* Not recorded.

श्री कपिल सिब्बल: अध्यक्ष महोदय, मेरा कहने का मतलब इतना ही था कि अगर आप मोहम्मद मसूद अज़हर को रिहा नहीं करते तो पार्लियामेंट पर हमला भी नहीं होता। ...(व्यवधान) आप उस समय गृह मंत्री थे, आपने खुद कहा है कि मुझे जानकारी ही नहीं थी कि हमारे मंत्री इन्हें लेकर गए। दुख की बात यह है कि मैं समझता कि आज के दिन या आज से पहले आपको खड़े होकर एनडीए सरकार की तरफ से जनता और पार्लियामेंट से माफी मांगनी चाहिए थी कि आपने ऐसी गलती की।...(व्यवधान)

MR. SPEAKER: Nothing will be recorded. Please take your seats.

*(Interruptions) â€¦**

अध्यक्ष महोदय: आप बोलिए, आपको जो बोलना है, बोलिए।[r37]

15.00 hrs.

â€¦(व्यवधान)

अध्यक्ष महोदय : आप सब लोग बैठिए। You may sit down. Please take your seats. This is not right. Please cooperate. Shri Ashok Pradhan, what has happened to you today?

...(*Interruptions*)

अध्यक्ष महोदय : आपकी सीट कहां है? जहां आपकी सीट है, आप वहां बैठिए।

â€¦(व्यवधान)

श्री मोहन रावले (मुम्बई दक्षिण-मध्य): अध्यक्ष महोदय, मेरा पाइंट ऑफ आर्डर है।

MR. SPEAKER: Let me listen to his point of order.

श्री मोहन रावले : सर, मैं आपको जानकारी देना चाहता हूं कि उस वक्त जब कंधार में ...(व्यवधान)

अध्यक्ष महोदय : जानकारी देना, पाइंट ऑफ ऑर्डर नहीं है।

श्री मोहन रावले : अध्यक्ष महोदय, उस वक्त भूतपूर्व प्रधान मंत्री, श्री अटल बिहारी वाजपेयी जी ने सारे विपक्षी दलों को बुलाया था और इसका मैं सुबूत दे सकता हूं। ...(व्यवधान)

MR. SPEAKER: This is not a point of order. No, I would not allow it. There is no point of order.

...(*Interruptions*)

* Not recorded.

MR. SPEAKER: This is very unfortunate. I thought after the unanimous Resolution of this House - to the passing of which the

Opposition has made a very significant contribution - today also the way Advani ji has spoken, there would be a healthier discussion. For every sentence if you go on making running commentary, I do not like it.

...(*Interruptions*)

MR. SPEAKER: Nothing will go on record.

*(Interruptions) â€¦**

MR. SPEAKER: Nothing is being recorded. There is no point of order.

...(*Interruptions*)

MR. SPEAKER: Nothing except Shri Sibal's statement will go on record.

*(Interruptions) â€¦**

श्री कपिल सिब्बल: आडवाणी जी ने एक बात शुरू में कही, वह यह कि जब आप यहां विधेयक ला रहे हैं और 22 फरवरी, 2009 को संसद का अधिवेशन शुरू होगा, तो आप इसे स्टेंडिंग कमेटी को क्यों नहीं भेज सकते? उन्होंने यह पहली बात, यहां कही और उन्होंने जोर देकर यह कहा कि यदि इसे पार्लियामेंट की स्टेंडिंग कमेटी को भेजते, तो इस पर सही तरीके से विचार होता और उसके बाद हम विधेयक पारित करते, तो बेहतर होता। मैं आपके माध्यम से बताना चाहता हूं कि जब उन्हें पोटा लागू करना था, तो वे अपनी सरकार के समय एक ऑर्डीनेंस लाए। क्या आपके दिमाग में यह बात तब नहीं आई कि इतना गम्भीर और महत्वपूर्ण विधेयक आप पास करने वाले हैं, तो आपको ऑर्डीनेंस नहीं लाना चाहिए, बल्कि उसे सदन में लाकर, सब लोगों से विचार-विमर्श कर के, उसे पारित करना चाहिए था? आप हमेशा ऐसा करते रहे हैं। मैं केवल एक बात आपके सामने रखना चाहता हूं। ...(व्यवधान)

अध्यक्ष महोदय : यह बहुत दुख की बात है कि आप लोग उनकी सुन नहीं रहे हैं। आप लोग यह क्या कर रहे हैं।

â€¦(व्यवधान)

श्री सुरेन्द्र प्रकाश गोयल (हापुड़): अध्यक्ष महोदय, जब माननीय आडवाणी जी भाषण दे रहे थे, तब हम लोग शांति के साथ सुन रहे थे, लेकिन ये बीच-बीच में इंटरप्ट कर रहे हैं। ...(व्यवधान)

* Not recorded.

MR. SPEAKER: Would you like to be disturbed like this when you are speaking?

...(*Interruptions*)

SHRI KAPIL SIBAL: The second point I wish to make is and you made it really the central point of your speech. You kept on saying that after ten years we have done a turn around. And after ten years we have suddenly realized that what we had done before was not right. You are happy at the fact that we have done a turn round. But you must remember Advani Ji, अगर टैररिज्म का किसी ने मुकाबला किया है, तो वह कांग्रेस पार्टी ने किया है, यह बात आपको मालूम होनी चाहिए। टाडा कानून हम लाए थे। ...(व्यवधान)

MR. SPEAKER: This is too much. I would stop the debate and go on to the passing of the Bill. You are interrupting deliberately. You cannot go on speaking like this.

...(*Interruptions*)

अध्यक्ष महोदय : आप लोग क्या कर रहे हैं। I have not allowed you to speak. If nobody wants a discussion then I will move to the passing of the Bill.

SHRI KAPIL SIBAL: The point that I was making was: as in life so also in politics, nothing is static. You always live to learn. Ideologies also change many a time. When we introduced TADA for the first time, it was a very drastic terror law and we wanted to deal with terror in a very strong way, that was the Congress position at that point in time and you did not dispute that. We realized in the course of implementation of TADA that a lot of atrocities had been committed.[R38]

Ultimately, you must remember that two of our greatest leaders in this country lost their lives because of terrorism. You must understand that and to make an accusation against a party which ultimately sacrificed two of its greatest leaders in this country post-Independence and to then charge that Party as not being able to fight terrorism, I think is very unfortunate and unfair. You must recognise the facts of history. You may misinterpret history. That is your choice but you must recognise the facts of history. जब हमने देखा कि टाडा का दुरुपयोग हो गया है तो हमने उसको लैप्स करा दिया। उसको दोबारा लागू नहीं किया। फिर क्या हुआ? उसके बाद 1998 में आप सत्ता में आये और आपने यह तय किया कि हम पोटा जैसा कानून लाएंगे, लेकिन उससे पहले आप महाराष्ट्र में सत्ता में आये। सबसे पहले 1999 में आपने महाराष्ट्र में

मकोका बनाया और मकोका जो कानून था, वह टाडा का एकदम रैप्लीकेट था, हूबहू, जो टाडा था, वही मकोका था तो आप अपनी तरफ से कोई कानून नहीं लाये। आप यह जनता को गलत बता रहे हो कि पोटा हमारा कानून था। पोटा, जो मकोका है, वह टाडा का हूबहू वही कानून था। आपने टाडा को कापी किया, अच्छी बात है, आपने कापी किया। वह 1999 में था, फिर 2001 में आप पोटा का आर्डिनेंस लाये, लेकिन जब आप मकोका और पोटा का अन्तर देखते हैं तो आप देखेंगे कि कई जगह आपने जो मकोका के प्रावधान हैं, प्रोवीजन हैं, उनको आपने नहीं अपनाया। क्यों नहीं अपनाया, मैं आपसे पूछना चाहता हूं? जैसे, मकोका में प्रोवीजन है कि अगर किसी एक्युज्ड को बेल मांगनी है तो वह याचिका देगा और पब्लिक प्रोसीक्यूटर को उसको अपोज़ करने के लिए एक मौका मिलेगा और बेल उसको तभी मिलेगी, अगर पब्लिक प्रोसीक्यूटर मान जाये कि उसको बेल मिलनी चाहिए। दूसरे, कोर्ट इस नतीजे पर पहुंचे कि वह दोषी है ही नहीं और तीसरे, कोर्ट इस नतीजे पर भी पहुंचे कि अगर उसको रिहा किया जायेगा कि ऐसा कोई ऑफेंस वह कमिट नहीं करेगा। ये तीन बातें आप मकोका में लाये, आप की ही सरकार महाराष्ट्र में थी, हमारी सरकार नहीं थी। जब आप वह लाये, जब पोटा आप लाये तो आपने यह प्रावधान उसमें नहीं रखा। क्यों नहीं रखा, हम आपसे पूछना चाहते हैं? आप टैरेरिज्म की बड़ी बात करते हैं, टफ कानून की बात करते हैं, क्यों नहीं रखा, क्योंकि आपने समझा कि यह कानून...(व्यवधान)

SHRI L.K. ADVANI : Will you yield for a minute?

SHRI KAPIL SIBAL: I am not yielding to you, Sir....(*Interruptions*). Sir, I am not yielding to you...(*Interruptions*)

MR. SPEAKER: Mr. Sibal, let him speak.

...(*Interruptions*)

MR. SPEAKER: This is the rule.

...(*Interruptions*)

MR. SPEAKER: I think you want to give some clarification.

SHRI L.K. ADVANI : Sir, I just wanted to say that when we were framing the POTA, I told all my colleagues in the Ministry of Home Affairs that we must see that whatever the Supreme Court has said in respect of such laws, all those safeguards must be provided in POTA. Therefore, it may be one of those but I do not know.

SHRI KAPIL SIBAL: If you do not know, I may tell you that it is not the case. The constitutional validity of TADA was upheld by the Supreme Court *in toto*...(*Interruptions*)

SHRI L.K. ADVANI : As regards MCOCA, your Government is there and yet three State Governments which have passed similar laws have not been permitted...(*Interruptions*)

SHRI KAPIL SIBAL: Sir, the point I was making was that they copied TADA but when it came to POTA, they did not include the provisions of MCOCA even in POTA.

श्री लाल कृष्ण आडवाणी : अच्छा हुआ।

श्री कपिल सिब्बल: अच्छा इसलिए हुआ कि आपको जानकारी हुई because of your experience कि ऐसे प्रोवीजन पोटा में नहीं होने चाहिए।[R39]

मतलब जैसे कि कन्फेशन, मकोका में प्रोवीजन है कि कन्फेशन पुलिस आफीसर का एक्युज्ड के खिलाफ तो हो सकता है, लेकिन उसके को-एक्युज्ड के खिलाफ भी हो सकता है। यह प्रावधान मकोका में था, लेकिन जब पोटा लाए, तो आपने को-एक्यूज्ड को निकाल दिया। क्यों निकाला? इसलिए ...(व्यवधान)

श्री विजयेन्द्र पाल सिंह (भीलवाड़ा) : ...(व्यवधान) बात क्या हुयी ? ...(व्यवधान)

अध्यक्ष महोदय : आपका क्या है, उनकी बात उन्हीं को बोलने दीजिए। He has not used anything unparliamentary that I will delete it. He will not speak to suit your wishes.

SHRI KAPIL SIBAL: Sir, the point I was making was that laws are not static; ideologies are not static. You learn from your experiences and just as you learn from your experiences, we also have learnt from our experiences, but that does not mean that we have come back home after 10 years. Even this particular law is not a replication of POTA. I will just explain that to you. It is not. You are under a misapprehension.

What are the three basic provisions that we were opposed to in POTA? The first basic provision that we were opposed to in POTA was confession to a police officer. It is on the basis of that confession that many innocent people have been convicted. We were totally opposed to that. We saw what was happening in Gujarat and how confessions were being taken. In this law there is no provision for the admissibility of confession to a police officer. आपने अपनी बहस में कहा कि कन्फेशन का इस्तेमाल होना चाहिए, लेकिन कन्फेशन का इस्तेमाल होता है। यह नहीं है कि क्रिमिनल प्रोसीजर में कोर्ट में कन्फेशन का प्रावधान ही नहीं है। कन्फेशन है, 164 सीआरपीसी का प्रावधान है। उसके अंतर्गत कन्फेशन हो सकता है। उस कन्फेशन का इस्तेमाल हो सकता है, लेकिन आज के दिन पुलिस क्या चाहती है और कुछ सरकारें ऐसा चाहती हैं कि वहां जाने की क्या जरूरत है? इनको पीटो, इनसे कन्फेशन लो, अपना पोलिटिकल एजेंडा पूरा करो और आगे बढ़ो। यह है पालिटिक्स। ...(व्यवधान) मेरे कहने का मतलब यह है कि for you POTA is not Prevention of Terrorist Acts. It is a political tool and an agenda to taking your politics forward. That is what POTA is for you.

That is what it is. The Politics of Terror Agenda is POTA for you.

Sir, now let me come to the other provisions.

SHRI L.K. ADVANI : What is this kind of a statement? ...(*Interruptions*)

SHRI HARIN PATHAK (AHMEDABAD): We are supporting this Bill...(*Interruptions*)

MR. SPEAKER: Do not record any interruptions.

You may please sit down with disappointment. You are disappointed, but you may please be seated.

Shri Sibal, you may please continue.

SHRI KAPIL SIBAL: Sir, the second provision is the bail provision. The provision under POTA was the following that the Public Prosecutor will be heard and the court will grant bail if the court comes to the conclusion that the accused is not guilty of the offence. Now as you would know, before the trial no court can ever come to the conclusion that the accused is not guilty of the offence. Therefore, no bail could ever be granted. We have deviated from that in the present law. We have not accepted that in the present law. The present law says what the Code of Criminal Procedure says that the Prosecutor will be heard but bail will only be granted if the court comes to the conclusion that there are reasonable grounds to believe that there is a *prima facie* case against the accused. So, there is a departure. They seem to be under some misapprehension that after 10 years we are again adopting POTA. That is not right.

SHRI L.K. ADVANI : After 10 years you are having a special law.

SHRI KAPIL SIBAL: This is an amendment to the Unlawful Activities Prevention Act. We in Government, we in politics learn from experiences just as they have learnt. Therefore, we do believe that in given circumstances, in the context of the situation that is currently there it is important for us to amend certain provisions of bail to make sure that you cannot tell the public at large that look this Government is not doing anything about dealing with an emergent situation that faces the nation. That is the kind of politics you play. We want to tell the country that we as a political party, the UPA as an entity are definitely tough on terror but at the same time we do not want to throw in the dustbin valuable Human Rights and the balance of the two is important for formulating any law in this country. [R40] That is the basi[U41]s on which we have moved forward. We must take care that human rights are not infringed and at the same time, we must make sure that we shall have enough laws in hand to take care of terror.

The third point that I wish to make is, after POTA was introduced by you as a law in 2002, how many terrorists acts were you able to prevent? Not a single terrorist act could be prevented because an Act is not meant to prevent terror. An Act is meant to punish terrorists. These are two different things all together. POTA will not prevent terror or the Prevention of Unlawful Activities Act will not prevent terror. So, whether a terrorist act takes place or not is not because there is POTA or there is no POTA. Ajmal Kasab came to Mumbai even though there was MOCOCA. And MOCOCA was worse than TADA. But he came there. MOCOCA did not prevent him from coming there and doing what he did. Laws have nothing to do with terrorism but certainly we must have laws in place to make sure that if we actually catch a terrorist, he must not get bail easily, that there must be enough provisions of the law to convict him. It is with this in mind that this Government has formulated an amendment in the Prevention of Unlawful Activities Act and not with a mind of coming back home after ten years, as you said. कि सुबह का भूला शाम को घर आया, मतलब असल बात यह है आडवाणी जी कि जब आपने खड़े होकर सैकुलरिज़्म की बात की तो मैं बहुत खुश हुआ, खुश हुआ कि आपने पहली बार कहा कि सैकुलरिज़्म इस देश की एक सभ्यता है, ऐसा तो होना चाहिए। लेकिन अगर आप सैकुलरिज़्म की बातें करते हैं तो उसे अपनाएं भी।...(व्यवधान) उसे साथ लेकर चलें भी, उस रास्ते पर चलें भी, केवल बातें मत करें।...(व्यवधान) देखिए, आपको बहुत दर्द होता है, मैंने सुना भी है कि आपको दर्द हुआ कि कुछ लोगों ने कहा कि हमें टॉर्चर किया गया है और हमें बेल नहीं मिलती। आपको दर्द हुआ और सही दर्द हुआ। हम चाहते हैं कि किसी को टॉर्चर नहीं करना चाहिए। लेकिन मैं आपके सामने एक बात रखना चाहता हूं। शायद आप उसे स्वीकार करेंगे।...(व्यवधान) गोधरा कांड के बारे में सबको मालूम है। गोधरा कांड में यह हुआ कि सन् 2001 में जब यह कांड हुआ, उसके बाद लोग हिरासत में लिए गए और आज के दिन भी लगभग 90 से 100 लोग हैं। उन्हें आज तक बेल नहीं मिली, मतलब उन्हें 27 फरवरी, 2009 को सात वर्ष हो जाएंगे, किसी को एक बेल नहीं मिली। कार्यवाही चलती रही। आप ही की वजह से, आपने पोटा के अंतर्गत एक स्टेट रिव्यू कमेटी बनाई थी। उस स्टेट रिव्यू कमेटी के अंतर्गत, स्टेट रिव्यू कमेटी को अधिकार है कि जो ऐविडैंस किसी के खिलाफ भी है, स्टेट रिव्यू कमेटी उसे देखे और यदि स्टेट रिव्यू कमेटी कहे कि यह पोटा का केस बनता ही नहीं है तो उसे स्वीकार करना चाहिए। ऐसी स्टेट रिव्यू कमेटी सन् 2005 में बनी। उस स्टेट रिव्यू ने जो निर्णय लिया, उसे मैं पढ़ना चाहता हूं। 16 मई, 2005 में this is what the State Review Committee has said. I would like the relevant portion from it.

> "In our opinion, this is a simple case of unlawful assembly commiting various offences under the Penal Code and other special Acts but certainly not the provisions of POTA."

...(*Interruptions*) I am reading from the Statutory Committee's Report. It is not what the UPA Government has done.

"This incident has taken place on the date, time and place as alleged by the prosecution but certainly not as a part of conspiracy envisaged under the provisions of POTA."

यह सन् 2005 में वर्डिक्ट आ गया। आपके पब्लिक प्रौसीक्यूटर ने केस में याचिका दी कि यह स्टेट रिव्यू कमेटी का ओपीनियन है, हम इसे नहीं मानते और आपको मानना नहीं चाहिए।[N42] हालांकि गुजरात हाई कोर्ट का जजमैंट था कि स्टेट रिव्यू कमेटी का ओपीनियन बाइंडिंग है, लेकिन आपके पब्लिक प्रौसीक्यूटर ने कहा कि हम नहीं मानते इसलिए कोर्ट ने नहीं माना। ...(व्यवधान) नहीं, हम किसी का नाम नहीं लेंगे। फिर मैटर सुप्रीम कोर्ट में गया और सुप्रीम कोर्ट ने अक्तूबर 21, 2008 को यह निर्णय लिया, जिसे मैं आपको पढ़कर सुना रहा हूं।

"We, therefore, hold that once the Review Committee on reviewing under Section 2 (3) of the Repealing Act expresses the opinion that there is no *prima facie* case of proceeding against the accused in cases in which cognizance have been taken by the court, such cases shall be deemed to have been withdrawn."

"Deemed to have been withdrawn" means अक्तूबर 21, 2008 में, जब स्टेट रिव्यू कमेटी का डिसीजन 2005 में था, they are deemed to have been withdrawn since 2005. यह सुप्रीम कोर्ट का निर्णय है और वे लोग आज तक पोटा के अंतर्गत जेल में बंद हैं। जो बेकसूर लोग हैं, उनकी जिम्मेदारी कौन लेगा? कौन लोग लेंगे, कौन सरकार उसकी जिम्मेदारी लेगी? उनको जेल में बंद हुए सात साल होने वाले हैं, लेकिन उनको आज तक बेल नहीं मिली। इसीलिए हम ऐसे प्रोविजन का विरोध करते हैं। ...(व्यवधान) इसलिए हमने यह प्रोविजन नहीं लिया। इसलिए हमने विरोध किया क्योंकि हम मानते हैं कि जिस तरह से इसका दुरुपयोग हो रहा था ...(व्यवधान)

MR. SPEAKER: Shri Kapil Sibal, please carry on.

श्री कपिल सिब्बल: अगर हम ऐसा ही कानून आपके हाथ में कभी भी देंगे, जो आपके हाथ कुछ प्रदेशों में है, आज के दिन भी हो रहा है। हम उसके पक्ष में नहीं हैं। ...(व्यवधान) मिस्टर आडवाणी जी, आपने और भी कई बातें कही हैं। ...(व्यवधान)

MR. SPEAKER: Those who are feeling unduly disturbed may go out for a little while.

श्री कपिल सिब्बल: आडवाणी जी, आपने और भी कई बातें कहीं। ...(व्यवधान)

श्री हरिन पाठक : अध्यक्ष महोदय, हम भी बोलेंगे।...(व्यवधान)

अध्यक्ष महोदय : आप जब बोलेंगे तब वे लोग भी आपको टोकेंगे। â€¦(व्यवधान)

श्री अशोक प्रधान (खुर्जा) : अगर वे बीच में बोलेंगे, तो बहुत अच्छा है। ...(व्यवधान)

श्री कपिल सिब्बल: आपने कहा कि जब 9/11 हुआ, तो अमेरिका ने क्या किया?...(व्यवधान) वे इतने कानून लाये कि वहां दोबारा 9/11 नहीं हुआ। आपको शायद मालूम है कि उनका जो पेट्रियॉट एक्ट है, वह अपने सिटीजन्स के खिलाफ नहीं है, वह केवल विदेशियों के खिलाफ है। उनका पेट्रियॉट एक्ट नॉन सिटीजन्स के खिलाफ है, किसी एक सिटीजन के खिलाफ नहीं है। मतलब यह है कि वहां 24 घंटे में आपको मैजिस्ट्रेट के सामने पेश करना पड़ता है, आज के दिन भी, 9/11 होने के बाद भी। नॉन सिटीजन्स के खिलाफ कानून क्या है कि आप सात दिन के अंदर उसे मैजिस्ट्रेट के सामने पेश करोगे इवन नॉन सिटीजन्स, आप सात दिन को बढ़ा सकते हो, लेकिन उसके लिए आपको अटार्नी जनरल ऑफ अमेरिका से एक सर्टीफिकेट लेना होगा कि That he is a danger to America. जब तक वह सर्टीफिकेट नहीं आयेगा, तो वह सात दिन के बाद कोर्ट जा सकता है। आप कौन से अमेरिका के कानून की बात कर रहे हो? इसका मतलब है कि जानकारी ही नहीं है। लेकिन दुनिया को बता रहे हैं कि अमेरिका ने यह कर दिया, यह कानून बना दिया। मैं आपको बता दूं कि यूनाइटेड किंगडम में क्या है? वह प्रावधान मैं आपको बता दूं। यूनाइटेड किंगडम में वर्ष 2006 का टेरोरिज्म एक्ट है, उसके अंतर्गत आप किसी को 28 दिन के लिए डिटेन कर सकते हो। उसे 28 दिन के बाद कोर्ट में जाने का हक है। वर्ष 2008 में एक काउंटर टेरोरिज्म एक्ट, इस सरकार ने, जो यू.के. की प्रैजेंट सरकार है, वह हाउस ऑफ कामन्स में विधेयक लाये। हाउस ऑफ कामन्स ने उसे 315 और 306 के अगेन्स्ट पास कर दिया। यह बड़ी स्मॉल मैजोरिटी थी। लेकिन हाउस ऑफ लार्ड में रिजैक्ट हो गया। अब यह पास क्या किया? वह चाहते थे कि यह जो 28 दिन की हिरासत है, उसे 42 दिन किया जाये। वह भी हाउस ऑफ लार्ड नहीं माना। वह 28 का 28 दिन ही है जबकि यहां 180 दिन है। इस लॉ में अब हमने 180 दिन का प्रावधान रखा है। हमारे जो लॉज हैं, वे अमेरिका से भी कहीं ज्यादा टफ हैं। इंग्लैंड से भी ज्यादा कहीं टफ हैं। आप मुझे विश्व में कोई एक उदाहरण दे दीजिए जहां ऐसे लॉज हैं।[MSOffice43]

मैं यह कहना चाहता हूं कि आप इस गलतफहमी में न बैठिए कि दूसरे देशों ने ऐसे विधेयक लाए हैं, जो इससे ज्यादा टफ हैं, यह कोई ऐसी-वैसी सरकार है या एक कमजोर सरकार है। एक विपक्ष के नेता को सदन में ऐसी बात कहनी ही नहीं चाहिए। सरकार सरकार ही होती है, चाहे वह किसी भी दल की हो।...(व्यवधान) फिर आप कहते हैं कि हम राजनीति नहीं करना चाहते हैं। मैं दिल्ली के इलेक्शन में था, मुझे मालूम है कि वहां क्या हो रहा था। जिस दिन वहां यह हो रहा था, दिल्ली में अखबारों में इश्तहार निकाले जा रहे थे कि अगर आप टेररिज्म का सामना करना चाहते हैं तो बीजेपी को वोट दीजिए। आप राष्ट्रवाद की बात करते हैं। आप कहते हैं कि आप राजनीति से उठकर बातें करते हैं। कहने की बात अलग होती है, लेकिन आज आपने सदन के सामने जो बातें रखीं, उससे मुझे आश्चर्य हुआ। आज के दिन हमें इस मतभेद में नहीं पड़ना चाहिए था, हमें विश्व को एक संदेश देना चाहिए था कि हम इस लड़ाई में इकट्ठे हैं।

श्री सैयद शाहनवाज़ हुसैन (भागलपुर): अब आप क्या कर रहे हैं?

श्री कपिल सिब्बल: मैं आपकी बात का जवाब दे रहा हूं।...(व्यवधान)

गृह मंत्रालय में राज्य मंत्री (डॉ. शकील अहमद): ये कह रहे हैं कि कथनी और करनी एक रखिए।

श्री हरिन पाठक : सिब्बल जी, आप बिल के पक्ष में बोलिए। विपक्ष में होने के नाते हमारा यह अधिकार है कि हम आपकी कमियां बताएं। आप केवल बिल के पक्ष में बोलिए। ...(व्यवधान)

अध्यक्ष महोदय : सिब्बल जी, आप बिल को अपने हाथ में लेकर बोलिए।

श्री लाल मुनी चौबे (बक्सर) : महोदय, आप सिब्बल जी को यह संदेश दीजिए कि यह कोर्ट नहीं है।...(व्यवधान)

अध्यक्ष महोदय : यह कोर्ट से बड़ा है। यह जनता की कोर्ट है, सबसे बड़ी कोर्ट है।

â€¦(व्यवधान)

MR. SPEAKER: Nothing will go on record.

*(Interruptions) â€¦**

अध्यक्ष महोदय : आप बैठ जाइए।

â€¦(व्यवधान)

अध्यक्ष महोदय : आप मेहरबानी करके बैठ जाइए।

â€¦(व्यवधान)

श्री लाल मुनी चौबे : मैं आपसे हाथ जोड़कर कह रहा हूं कि आप तो न्याय कीजिए।...(व्यवधान)

अध्यक्ष महोदय : मैं क्या न्याय करूं। मैं आप लोगों से केवल अपील कर सकता हूं।

â€¦(व्यवधान)

SHRI KHARABELA SWAIN (BALASORE): Sir, I would request him to be present when our turn comes to speak. ...(*Interruptions*)

* Not recorded.

MR. SPEAKER: I cannot compel anybody to remain present in the House.

...(*Interruptions*)

MR. SPEAKER: Nothing will go on record.

*(Interruptions) â€¦ **

SHRI KAPIL SIBAL: Sir, just to complete the point, the law laid down by the Supreme Court in several judgments is known to all. I do not want to go into that matter. But as late as 2005 in a case State *vs. Navjot Sandhu,* (2005) 11 Supreme Court Cases 600, they discussed the entire law in Kartar Singh and POTA. This is what the judge said and I want to quote this. I am quoting paragraph 54.

> "The Constitution Bench judgment is binding on us. In fact, the ratio of that judgment applies with greater force to POTA, as the guidelines set out by the Constitution Bench are substantially incorporated into Section 32. It is perhaps too late in the day to seek reconsideration of the view taken by the majority of the Judges in the Constitution Bench. But as we see Section 32, a formidable doubt lingers in our minds despite the pronouncement in *Kartar Singh* case. That pertains to the rationale and reason behind the drastic provision, making the confession to a police officer admissible in evidence in a trial for the POTA offences. Many questions do arise and we are unable to find satisfactory or even plausible answers to them.[a44] "

This is Supreme Court itself on Kartar Singh. So, there is a genuine debate going on in this country. There is a genuine debate going on in the Judiciary whether confessions to a police officer should be allowed or not and it is in the context of that that we have formulated our law. As the hon. Home Minister has rightly said, we want to bring about a balance in the law to make sure that it is not an instrument in the hands of those who want to abuse it. At the same time, we want to make sure that there is enough teeth in the law to deal with terrorists. It is with that in mind that we have moved forward.

15.31 hrs (Shri Varkala Radhakrishnan *in the Chair*)

* Not recorded.

दूसरी बात मैं नेशनल इंवैस्टीगेशन एजेंसी के बारे में कहना चाहता हूं और अपनी सरकार को धन्यवाद देना चाहता हूं कि वह यह विधेयक लाई। आपको मालूम होगा कि माननीय आडवाणी जी जब होम-मिनिस्टर थे, डिप्टी प्राइम-मिनिस्टर थे, वे कई सालों तक फैडरल एजेंसी की बात करते रहे। इनके पास बड़े-बड़े नेता भी थे जो कानून जानते थे, लेकिन 6 सालों में भी ये फैडरल एजेंसी नहीं बना पाए। वे चाहते थे कि हम करें, हार्ड ऑन टैरर हैं, टफ ऑन टैरर हैं लेकिन टैरेरिज्म पर फैडरल एजेंसी नहीं बना पाए। हमने दो हफ्ते में वह कर दिया जो इन्होंने 6 सालों में नहीं किया। हमने क्यों दो हफ्ते में किया, मैं उसका कारण बताता हूं। हमने सोचा कि टैरेरिज्म जो है यह केवल एक कानून है लेकिन कई ऐसे कानून हैं जो इस फैडरल इंवैस्टीगेशन एजेंसी के पात्र हैं और वे शैडयूल में दिये गये हैं। जैसे एटोमिक एनर्जी है। यहां एक फैडरल इंवैस्टीगेशन एजेंसी चाहिए। यह स्टेट का लॉ एंड आर्डर इश्यू नहीं बन सकता। एंटी हाइजैकिंग एक्ट, जैसे कंधार में हुआ, उसके लिए स्टेट लॉ काफी नहीं है। यह आपको करना चाहिए था, आपने इसे 6 सालों में क्यों नहीं किया? The Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982. The SAARC Convention on (Suppression of Terrorism) Act 1993. The Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act 2002. हमने सोचा कि कुछ ऐसे कानून इस देश में हैं जहां केवल एक फैडरल इंवैस्टीगेशन एजेंसी ही जांच कर सकती है। इसीलिए हम यह कानून लाए हैं। यह केवल अनलॉफुल एक्टीविटीज एक्ट के लिए ही नहीं है, यह कई और एक्ट्स के लिए भी है। मैं माननीय गृह मंत्री जी को मुबारकबाद देना चाहता हूं क्योंकि इसमें सेक्शन 18 है जिसके अंतर्गत कहा गया है कि "The trial under this Act of any offence by a Special Courtâ€¦" क्योंकि ये शैडयूल ऑफेंस हैं। शैडयूल ऑफेंस के अंतर्गत कोई भी नेशनल इंवैस्टीगेटिंग एजेंसी शैडयूल क्राइम को इंवैस्टीगेट कर सकती है। इस 18 में लिखा गया है कि

> "The trial under this Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case against the accused in any other courtâ€¦"

गोधरा के केस में अभी ट्रायल शुरू नहीं हुआ है जबकि 7 साल उसे हो गये हैं, अभी चार्जेज भी फ्रेम नहीं हुए। अगर स्टेट रिव्यू कमेटी का निर्णय सही है कि वे अपनी सजा भी भुगत चुके हैं लेकिन उन्हें बेल भी आज तक नहीं मिली। आपने सही नहीं किया, हमने सही किया। हम ये परिवर्तन लाए हैं और हम ये सीख रहे हैं। जैसे आपने सीखा और आने वाले दिनों में मैं सोचता हूं कि और आगे भी आप सीखोगे। हम एक दूसरे से सीखते हैं और हमें एक दूसरे से सीखना चाहिए। सेक्युलरिज्म की बात अगर आप सीखोगे तो देश बड़ी गति से आगे बढ़ेगा। हम चाहते हैं कि आप इसे जल्दी से जल्दी समझें। उसका जो भाव और प्रेरणा है उसे समझो और आगे बढ़ो। So, the point that I was making was that we have tried to make a Federal Investigation Agency to make sure that the implementation of the law is also equally efficient.

The hon. Home Minister has, in fact, set out in this law, the UPA Government has set out in this law that not only will there be Special Court but also in fact Special Judges will be appointed. In other words, assuming there is a schedule offence in Gujarat or a schedule offence in Madhya Pradesh or in Delhi, immediately within 7 days of that offence, the Chief Justice of the High Court will be requested and within 7 days he will have to give a Judge. That was not something that was there in the POTA. The point I am trying to make is that we have tried to bring about a lot of improvements. Where we have gone with the previous POTA was only in respect of Section 167, namely, custodial interrogation even up to 180 days.[R45]

That is the only provision where we have gone with the POTA. But for the rest, it is entirely different because we have learnt from experience, we have learnt from your experience, we have learnt from our experience and it is a good thing and for you to say that हम दस साल के भूले हुए अब घर आए हैं, यह बात सही नहीं है। मैं इतना जरूर कह सकता हूं कि उस तरफ के भूले हुए लोग अभी भी घर वापिस नहीं आए हैं। हम कहना चाहते हैं कि आप घर वापिस आ जाओ। शाम हो चुकी है, आप घर आ जाओ। अगर आप घर नहीं आओगे, तो अंधेरे में ही रहोगे, जैसे दिल्ली और राजस्थान में रहे और आगे भी यही होने वाला है।

Sir, I want to mention one more thing. The war on terror is never ending. We can see what is happening to the United States of America in Iraq. Despite all the strong laws, despite the big army, American soldiers are dying everyday in Iraq because the war on terror is never ending. That was, in fact, forecast at the opening of *The Iliad*. When European Armies first attacked Troy, then Apollo, with his silver bows, rained down his arrows on the Greeks for 9 days killing thousands with the plague. The funeral pyres of the dead burnt day and night until this divine bio-terror was placated by the antidote of sacrifice and the conflict continued.

Terrorism will be with us. What we need to do is to try and limit it, what we need to do is to try and prevent it, what we need to do is to stand together and try and meet the challenge of terrorism. It will not be done by scoring political points in parliamentary debates; it will be done if we stand together as a nation. It will also not be done by just passing these two laws; it needs much more than that. Let us come together, let all State Governments come together, let us reform the police system in our country, let us empower policemen in our country, let us empower people in our country and let us, at least, agree on certain issues which are national issues.

Sir, I would like to say one more thing. Terrorism, they say, is like a soccer game. You may save a hundred shots, but people will only remember the one shot that goes through. The saves, people will not remember. That shot went through in Mumbai and we need to rise, gather together and mourn that one shot that was fired at us. Please let us not reduce this debate to polemics; let us stand together today as a nation, forget the past, look forward to the future and be together in our march in the

SHRI BASU DEB ACHARIA : Mr. Chairman, Sir, on 11 th of December, when there was a discussion in this House after the horrific incidents in Mumbai, we say a rare unity in the House, which is indeed required to combat terrorism. We see that unity among the people today, whether one is a Hindu or a Muslim or a Christian or a Jain. We have seen that rare unity among the people of our country and the pledge to fight against terrorism unitedly.[R46]

[r47]Sir, these two Bills are very important Bills. The proposal was made in the meeting of the Leaders of all Political Parties in the aftermath of Mumbai incidents. But as these two Bills are very important, our suggestion is that these Bills should be referred to the Standing Committee. The hon. Home Minister has explained that there is urgency. The Government wants to show the people of our country that it is serious enough to tackle and combat terrorism. As we will have another Session, as has been indicated by the hon. Home Minister, if not two Bills, at least, one, that is, National Investigation Agency Bill, should be referred to the Standing Committee for scrutiny and for making a better Act. Instead of bringing it, even after introduction, yesterday, it has been brought today. The question is whether any touch Act will be able to prevent the terrorism in our country.

Whenever any incident takes place, the first reaction that comes from the main Opposition Party, that is, BJP, is that there is no POTA and that is why the terrorism action has taken place or that incident has taken place. I would like to draw the attention of the main Opposition Party that when this stringent, draconian law was there, we opposed it. We opposed it because there were a number of provisions which were draconian and that is why in 2004 election, the UPA pledged before the people that if they would come to power the first thing that they would do is to repeal POTA. The people of our country voted NDA out of power.

We used to support the UPA Government and the Left Parties demanded that the first thing the UPA Government should do was to repeal POTA, to remove the draconian provisions of POTA. There were consultations with our Party. We suggested that the draconian provisions of POTA should not be incorporated in the Unlawful Activities (Amendment) Bill 2008. There are three-four such provisions which were there in POTA. Those provisions have been brought back.

Why were we against such a draconian Act? We were against it because POTA was misused. I can give an example. Jharkhand is a small State where 600 people, in the ages of 14 years to 85 years, belonging to a particular community were arrested. Without trials, they were kept inside the jail. We have seen how POTA was misused or used after 2002 Gujarat carnage. The question is that after the enactment of this legislation whether this legislation will also be misused. In case of TADA also, when TADA was enacted, what the Leader of the Opposition said? In spite of misusing, when TADA was used against farmers' agitation, he never asked for repeal of TADA because that draconian Act was used against a particular community, minority community. That was why though TADA was misused against farmers' agitation, they did not ever ask for repeal of TADA. TADA was allowed to lapse.

An Act may be stringent or draconian but it cannot prevent the occurrence of incidents of terrorism, as we have seen during NDA regime. We have seen attack on Parliament House; we have seen attack on Akshardham Temple; we have seen attack on Raghunath Temple. We have seen a number of terrorist incidents in our country when there was POTA. What is required is political will. That is lacking.

What is the situation today in our country? When we talk of police forces, just now Kapil Sibal *ji* stated that our police forced should be modernised. What is the situation? UNO's Resolution is that there should be 220 police personnel in one lakh population. What is the situation in our country? It is only 176 in one lakh population. There are some States where, in the past, and today also, a number of incidents have taken place like Assam where in one lakh population the number of police personnel is only 86. There are a number of Commissions, five-six Commissions like Ribeiro Commission. These Commissions recommended for reforms in modernisation of police force, but none of the recommendations of these Commissions have ever been sincerely implemented. What have we seen in Mumbai in Chhatrapati Shivaji Terminus? We saw the police force hiding behind the pillar with 303 rifles. So, we have to strengthen our bottom line.

I would like to know from the Home Minister, after taking over the Home Ministry from Finance Ministry, what are the concrete proposals before the Home Ministry in regard to strengthening the police forces in order to modernise the police forces.[r48]

Sir, a Group of Ministers was constituted in 2003 to examine our intelligence system when NDA Government was in power. Four thousand posts in the Intelligence Bureau were sanctioned. All these 4,000 posts remain unfilled. No recruitment has taken place.

The law will not be able to prevent these incidents. If the draconian provisions of POTA are brought in the proposed legislation, then there is a likelihood of misusing those provisions. This is our experience.

Sir, we have submitted our amendments in regard to the Unlawful Activities (Amendment) Bill, 2008. What is there in Clause 43(D)? I am reading it. It says:

" (1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and "cognizable case" as defined in that clause shall be construed accordingly.

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2), --

(a) the reference to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty days", "ninety days" and "ninety days" respectively; and

(b) after the proviso, the following provisos shall be inserted, namely:--

Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days: â€¦"

Exactly what was there in POTA has been brought in this Bill. Nowhere in the world, Sir, there is such provision in any law. In the case of a murderer also, under Section 302 of IPC, a person can be detained for a maximum of 90 days, and bail will not be allowed. But why it has been increased to 180 days here? So, we have suggested an amendment that whatever provision is there in IPC, it should be retained in this legislation also. Otherwise, this legislation will be the repletion of the provision existing in POTA.

While speaking on the discussion regarding the bomb blast in Guwahati, I had said that if the Government brings a Bill, we will support it.[H49]

But if you contain the same draconian provision in the Bill, which was there in the POTA, we will not be able to support that provision; we will rather oppose it. What was the need for extending it from 90 days to 180 days just to keep the provision of POTA? The hon. Home Minister should explain it.

Sir, we have also suggested other Amendments in Clause 43E and 43F. In Clause 43E, in place of line 44 we have suggested: "the Court shall presume such offence." So, our contention is that there should not be any provision in the Bill, which we consider to be draconian. There is a need for unanimity and consensus in the House. In the name of combating terrorism, if such draconian provisions are brought within the Bill, we will not be able to support it.

Similarly, in the other Bill – National Investigation Agency Bill – we categorically told our Home Minister that initially we are not in favaour of any such Central Investigation Agency, but the incidents of terrorism, which are taking place today, it is not possible for the State Governments to investigate and take action, therefore, there is a need for such an Act. But we also told that the State Governments should be involved while investigating certain matters, which are within the domain of the State Governments. That is why we have suggested that the Schedule should be divided into two – Schedule A and Schedule B. In Schedule A, the Acts, will be there, like the Atomic Energy Act, 1962, Anti-Hijacking Act, 1982, Suppression of Unlawful Activities Act.

MR. CHAIRMAN : Mr. Acharia, your allotted party's time is over.

SHRI BASU DEB ACHARIA: Sir, I have just started...(*Interruptions*)

MR. CHAIRMAN: You have already taken 20 minutes. Let me finish as early as possible.

...(*Interruptions*)

SHRI BASU DEB ACHARIA : Yes, Mr. Salim also will speak...(*Interruptions*) I have just started. I have only taken five minutes...(*Interruptions*)

SHRI P. CHIDAMBARAM : Five minutes!...(*Interruptions*)

SHRI P. CHIDAMBARAM: You are not listening what the Chairman is saying.

MR. CHAIRMAN: Mr. Acharia, you have already taken 20 - 22 minutes, whereas your party's time allotted was 19 minutes.

SHRI P. CHIDAMBARAM: You have already taken 22 minutes.

SHRI BASU DEB ACHARIA : Sir, we are discussing two Bills together.

Under Schedule B, Unlawful Activities Act, 1967, Offences under Chapter VI of the Indian Penal Code and B Section 489A and 489E both inclusive of the Indian Penal Code, may be there.[r50]

16.00 hrs.

So, we have suggested that clause 7 should be amended. 'While investigating any offence under Schedule-A of this Act, the agency having regard to the gravity of the offence and other relevant factors may â€¦' this is the amendment we have suggested. We said that there will be a new clause, Clause 7-A wherein it may be stated that –'while investigating any offence under Schedule-B of this Act, the agency shall associate the State Government with investigation'.

The hon. Minister of Home Affairs has agreed when I raised the point that the State Government should be involved in investigation of certain crimes under certain Acts. He agreed; but in spite of that, that has not been incorporated in the Bill. That is why we have suggested that the Schedule should be divided into two – Schedule A and Schedule B - because there will be every likelihood of encroachment upon State power.

We have to fight terrorism together, the Central Government, the State Governments and the people of the country together. We know that. But unless certain measures are taken like strengthening our police forces, strengthening our Intelligence Department and with a political will, then only we will be able to take action. We will not be able to root out, but we will be able to minimise the number of incidents.

What is required today is the unity of the people. The people today are united. A few months back when the hon. Prime Minister went to USA, President Bush introduced his wife saying that 'there are 150 million Muslims in our country, but not a single Muslim belongs to Al Qaeda'. Such is the tradition of our country. But when we find that certain political parties try to divide and try to blame one section of our people whenever such an incident takes place, when they try to straightjacket a particular community and when we find that the main Opposition Party, after such horrific incident, it happened in Guwahati and it happened in Assam, the hon. Leader of the Opposition states that the people of Assam will reply to this incident at the time of Lok Sabha elections.

So, Sir, we should not politicise and we should not try to gain out of such incidents. We are to fight unitedly. But that cannot be done when you oppose altogether. Altogether we opposed the draconian Act, POTA. The people of our country demanded repeal of POTA. If you bring back certain provisions, such draconian provisions which were there in POTA, what will happen? What did you pledge to the people and on what ground we opposed the draconian and stringent provisions of POTA? We will have to think over how it was misused in Gujarat and in other parts of our country.

We are bringing here a law to combat terrorism. But terrorism and communalism are the two sides of the same coin. We have seen what happened in one district of Orissa – Kandhamal. We have seen Malegaon.[k51]

Sir, a terrorist has no religion, no caste and no creed, but if the incident of terrorism is communalised, we will not be able to fight terrorism in our country. That is the need of the hour today. We feel that there is a need of a law. You have a special legislation because Unlawful Activities Act was enacted to replace POTA. That is a special law. Now that law is being amended and more stringent and draconian provisions are being brought in the Bill. We will not be able to support those provisions. That is why, I have suggested that instead of bringing this Bill to this House, it should have been referred to the Standing Committee as we had decided at the time of setting up of Standing Committees that all the important Bills would be referred to the Standing Committee. I know the urgency, but by bringing and introducing the Bill, you can show to the people your urgency and your seriousness. But referring it to the Standing Committee would have enabled the Standing Committee to scrutinise it.

SHRI ANANTH KUMAR (BANGALORE SOUTH): Sir, I want to ask you only one question. Is this Bill more stringent than POTA, according to you? ...(*Interruptions*)

SHRI BASU DEB ACHARIA : I have already stated. I have also with me the anti-terror laws of various countries. If you compare it with other countries, you see what you did. We know your track record during the six years of NDA regime. आज आप बोल रहे हैं कि

कुम्भकरण की नींद सो रहे हैं, उस समय आप कहाँ थे?

MR. CHAIRMAN : You have taken half-an-hour.

SHRI BASU DEB ACHARIA : You had freed three dreaded terrorists. उनको लेकर, मेहमान बनाकर, उस समये उनको छोड़ दिया, तब नहीं सोचा था, उस समय कहाँ थे? आडवाणी जी, लौह पुरूष, उनका लौह पुरूष क्या हो गया। ...(व्यवधान)

श्री खारबेल स्वाई : स्टेटमेंट मत दीजिए। हिम्मत है क्या? ...(*Interruptions*)

श्री बसुदेव आचार्य : जरूर हिम्मत है। हिम्मत क्यों नहीं होगा? ...(*Interruptions*)

SHRI KHARABELA SWAIN : Then, you make a statement here that we should have allowed those 150 passengers to be killed. I think, you are a courageous person. You make a statement here. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : Why? You will demand and I will make the statement. ...(*Interruptions*)

श्री खारबेल स्वाई : आप ज्यादा चालाक मत बनिए। ...(*Interruptions*)

MR. CHAIRMAN: Shri Basu Deb Acharia, you have already taken more than 30 minutes. Your time to speak is over.

...(*Interruptions*)

SHRI BASU DEB ACHARIA : You had freed three dreaded terrorists. You have no moral right. ...(*Interruptions*)

MR. CHAIRMAN: If there is no time-limit, I cannot sit here. You have taken 30 minutes.

...(*Interruptions*)

SHRI BASU DEB ACHARIA : You had stayed in power for six years. You brought a draconian Act. ...(*Interruptions*)

MR. CHAIRMAN: Nothing will go on record.

*(Interruptions) â€¦ **

SHRI BASU DEB ACHARIA (BANKURA): You wanted to divide communally this country and weaken the united fight against terrorism.

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* Not recorded.

MR. CHAIRMAN: Now, Shri Mohan Singh will speak.

Hon. Members, if you kindly cooperate and keep the time schedule, we will have a very meaningful exercise. Otherwise, it will be prolonged like anything. So, you please keep the time schedule. Then, the discussion will be all right. Let there be some beautiful expressions of ideas also. If you lengthen your speech like this, it will take us nowhere.

श्री मोहन सिंह (देवरिया) : महोदय, जो लोग ब्रीफ नहीं रहते हैं, उनको आप ब्रीफ करने की कोशिश नहीं करते हैं। हम तो स्वतः ही आज बहुत कम बोलेंगे क्योंकि मेरी तबियत ठीक नहीं है। मैं केवल इस बात के लिए खड़ा हूँ कि इन दोनों विधेयकों का हम पुरजोर तरीके से समर्थन करते हैं।[r52]

यह बात यहां बार-बार कही गई और सभी वक्ताओं द्वारा कही गई कि जनता एक होकर आतंकवाद का मुकाबला करे। तो जनता एक होकर आतंकवाद का मुकाबला करे और इस सदन में बैठे हुए नेता एक दूसरे पर कीचड़ उछालने की अंत्याक्षरी करें, ये दोनों बातें साथ-साथ नहीं चल सकतीं।

16.11 hrs. (Dr. Satyanarayan Jatiya *in the Chair*)

इसीलिए मुम्बई शहर में जो घृणित घटनाएँ हुई, उसके बाद सारा इल्ज़ाम नेताओं के ऊपर लगना शुरू हुआ और कुछ चैनल्स ने तो बहुत ही भद्दे ढंग से कहना शुरू किया कि ....* हम ऐसा सोचते हैं कि इस तरह की भद्दी टिप्पणियाँ हम लोगों पर क्यों हो रही हैं। आज की भद्दी अंत्याक्षरी को देखकर मैं संतोष कर सकता हूँ कि क्या इस तरह की टिप्पणियों के संभवतः हम लोग पात्र हो गए हैं? यदि हम आतंकवाद की घटनाओं को और आतंकवाद से निपटने के लिए बनने वाले कानूनों का सर्वसम्मति से और मज़बूती से समर्थन नहीं करेंगे तो मैं ऐसा समझता हूँ कि इस देश में जो आतंकवादी घटनाएँ हो रही हैं, उसको करने वालों के मनोबल को चूर करने में हमारी जो कोशिश और पहल होनी चाहिए, उसमें हमें कमज़ोरी दिखाई देगी। यह बात सही नहीं है कि एकाएक राष्ट्रीय जांच आयोग का विधेयक इस सदन के सामने आ गया। पिछले दो वर्षों से भारत सरकार इस प्रयास में थी कि एक फैडरल इनवैस्टिगेटिंग एजेन्सी होनी चाहिए और इस तरह के विधेयक पर संसद के गृह मंत्रालय की सलाहकार समिति में कई बार विचार हो गया था। सभी दलों के, पक्ष और विपक्ष के लोगों ने इस पर सलाह दी थी और मैं उन लोगों में था जिन्होंने इस तरह की जांच एजेन्सी का समर्थन किया था। उसके बाद भारत सरकार ने इस तरह की जांच एजेन्सी बनाने के संबंध में अपने विधेयक को सभी राज्य सरकारों को परिचालित किया था। उसमें से अधिकांश राज्य सरकारों ने केवल इस आधार पर उसको नकार दिया कि इस देश के संविधान का संघीय ढाँचा इससे प्रभावित होगा, अपराधों की छानबीन करने के लिए राज्यों का अधिकार प्रभावित होगा, इसलिए भारत सरकार को इस तरह

* Expunged as ordered by the Chair.

की एजेन्सी नहीं बनानी चाहिए। हम विनम्रतापूर्वक कहना चाहते हैं कि सामान्य कानून व्यवस्था से संबंधित जो अपराध हैं, उन अपराधों से वृहद् अपराध आतंकवादी अपराध है और इसके बहुत सारे प्रमाण देश और दुनिया के सामने आ गए हैं कि भारत में जो प्रायोजित आतंकवाद है, वह केवल देशी नहीं है। देश में भी फूटने और फलने वाला एक किस्म का आतंकवाद है लेकिन जिसका स्वरूप काफी वृहद् है, जिससे काफी नुकसान होता है, वह हमारे आस-पास के देशों से प्रायोजित है। दक्षिण एशिया का कोई ऐसा देश नहीं है जो हमारे देश के लिए आतंकवाद के एक्सपोर्टर देश के रूप में न हो गया हो। बंग्लादेश की कहानी परसों कही गई। नेपाल से भारत की ओर घटनाएं प्रायोजित होती हैं। कई सारी घटनाएँ हुई। सबसे बड़ा गढ़ पाकिस्तान हो गया भारत की तरफ आतंकवाद को मोड़ने के लिए। ऐसी स्थिति में जब इसका स्वरूप बहुदेशीय है और जब इसका स्वरूप बहुराज्यीय है, तो एक राज्य की पुलिस किसी भी हालत में इस तरह की घटनाओं की छानबीन सही ढंग से नहीं कर सकती। हमें अपने पुलिस बल को, जो जांच वाला पुलिस बल है, उसको बहुभाषी बनाना होगा और आज के जितने आधुनिक छानबीन के संयंत्र आ गए हैं, उन सारे संयंत्रों में उनको पूर्ण रूप से प्रशिक्षित और दीक्षित करना पड़ेगा। हमारी दुष्वारी है कि हमारे देश में केन्द्रीय स्तर पर केवल एक जांच एजेन्सी है जिसको हम सीबीआई के नाम से जानते हैं।

जब कोई छोटी-मोटी घटना होती है, किसी पड़वे को किसी भैंस ने मार कर गिरा दिया तो किसी आदमी का उसे मारने में हाथ है तो यह मांग आ जाती है कि उसकी जांच सीबीआई करे, नहीं तो इसकी जांच निष्पक्ष नहीं हो सकती। हमारी सीबीआई इतनी ओवर बर्डन हो गई। अभी सुप्रीम कोर्ट में बहस हुई कि क्या हाई कोर्ट को इस बात का अधिकार है कि किसी भी राज्य के अपराध को अपने आदेश से कहें कि सीबीआई इसकी जांच करे। सुप्रीम कोर्ट ने आदेश दिया है कि किसी भी हाई कोर्ट को इस बात का अधिकार है कि सीबीआई जांच कर सकती है। राज्यों की सरकारें जब एक-दूसरे से बदल जाती हैं तो राजनैतिक द्वेष भाव से कोई घटना होती है, सीबीआई इसकी छानबीन करे। इसमें सीबीआई की बदनामी भी हो रही है। लोग कहते हैं कि केन्द्र में जो सरकारें रहती हैं, वे अपनी सुविधा के अनुसार राजनैतिक इस्तेमाल के लिए भी सीबीआई का उपयोग अथवा दुरुपयोग करती हैं। ऐसी हालत में एक जांच एजेंसी से इस तरह के बड़े आपराधिक कृत्यों की जांच नहीं हो सकती थी।

महोदय, हमारे यहां सूचना की दो एजेंसियां हैं - एक को आईबी के नाम से जानते हैं और दूसरी को रॉ के नाम से जानते हैं। रॉ इस बात के लिए बनी थी कि भारत विरोधी गतिविधियां यदि किसी देश के अंदर हो रही हैं तो उसकी सूचना भारत के पुलिस बल को देने में एक ऐसी एजेंसी होनी चाहिए, जो सक्षम हो। उस समय श्रीमती इंदिरा गांधी का शासन था और कॉव साहब उस जमाने में पुलिस प्रशासन के एक वरिष्ठ और दक्ष व्यक्ति थे, जो रॉ के जमाने में डायरेक्टर बनाए गए थे। लेकिन धीरे-धीरे रॉ का भी पतन हो गया। ये खबरें अखबारों में पढ़ने के बाद बहुत ही भद्दा लगता है कि रॉ का कोई अधिकारी विदेशों में भारत की सूचना देने के लिए भेजा गया है, लेकिन वह भारत के प्रति अपनी वफादारी छोड़ कर उस देश का नागरिक बन कर, उसका एजेंट बन जाता है। ऐसी घटनाएं अखबारों में आने के बाद रॉ की प्रतिष्ठा बुरी तरह गिर गई। हम आईबी के बारे में टिप्पणी करना नहीं चाहते, लेकिन यह बड़ी दुर्भाग्यपूर्ण स्थिति है कि इस तरह की बाहर से प्रायोजित घटनाएं हो जाती हैं और हमारे देश की जो प्रमुख सूचना देने वाली संस्थाएं हैं, उन्हें जिस दृढ़ता और दक्षता के साथ हमारे देश का सहयोग करना चाहिए, नहीं करती हैं। नेताओं पर कार्यवाही हो जाती है, गृह मंत्री हटा दिए जाते हैं, लेकिन जो प्रशासनिक चूक होती है, उसके लिए जो जिम्मेदार अधिकारी हैं, उनके खिलाफ कोई कार्यवाही न होना, मैं समझता हूं कि यह भी शासन की कमजोरी को सिद्ध करता है। इसलिए सरकार को इस तरह के जिम्मेदार अधिकारियों को एकाउंटेबिल बनाना चाहिए।

महोदय, यह बात बार-बार कही जाती है कि जो आईएसआई पाकिस्तान की संस्था है, वह एक स्वतंत्र संस्था है। उसके ऊपर किसी का नियंत्रण नहीं है। हम बहुत मोटे तौर पर कह सकते हैं कि पाकिस्तान उस रूप में लोकतांत्रिक देश नहीं है। भारत सही मायने में एक लोकतांत्रिक देश है, क्योंकि यहां की कोई भी संस्था स्वच्छंद और स्वतंत्र नहीं है। सभी एक-दूसरे के प्रति जवाबदेह हैं। ये हमारे तंत्र की सबसे बड़ी खूबी है। यदि हम सब के प्रति जवाबदेह हैं तो केवल गृह मंत्री क्यों, केवल एक राज्य का मुख्य मंत्री ही क्यों, क्या उनके बारे में हम नहीं पूछ सकते। हम इस बात को बड़ी दृढ़ता के साथ कहना चाहते हैं कि बाहर से जो प्रायोजित आतंकवाद था, हमने देश को इस रूप में फेंसिंग करके पाकिस्तान की सीमा से गुजरात से लेकर काश्मीर तक जो फेंसिंग की, बंग्लादेश की सीमा पर अधिकांश जगहों पर फेंसिंग की, उसके सकारात्मक परिणाम हमारे देश को मिले कि उधर से जो तस्करी और आतंकवाद का इम्पोर्ट हमारे देश में था, वह काफी रुका। लेकिन क्या हमारे देश की एजेंसी इस बात को गहराई से पहले से देखने में विफल और अक्षम क्यों हो गई कि हमारी जो खुली हुई सीमा है - चाहे वह नेपाल से या समुद्री रास्ते से निकलने वाली हों, इन आतंकवादियों और तस्करों का एक रास्ता वह भी हो सकता है। उसके ऊपर हमें दृढ़ चौकसी बरतनी चाहिए। इसमें किस की विफलता है, इसके बारे में भारत सरकार को छानबीन करनी चाहिए और उसकी एक जिम्मेदारी इन्हें सुनिश्चित करनी चाहिए।

महोदय, मैं दूसरी बात कहना चाहता हूं कि यह जो कानून बना है, यह बहुत सही है कि जब कभी भी इस देश के इतिहास में मानव अधिकार के प्रति आवाज उठेगी कि हम एक सशक्त राष्ट्र हैं और हमारे देश के आधुनिक इतिहास में जब कभी भी इस तरह के कठोर कानून बने, उनके दुरुपयोग का भारी विरोध हुआ। सभी लोग जानते हैं कि इस देश में रॉलट एक्ट से लेकर, डी.आई.आर.,मीसा और प्रिवेंटिव डिटेंशन के कानून के बहुत सारे दुरुपयोग हुए और उनके दुरुपयोग की संभावनाएं रहती हैं। इसी कारण से मानव अधिकारवादी देश होने के नाते इस देश में इस तरह के कानूनों का विरोध होता है।

महोदय, इसी सदन के भीतर जब रॉलट एक्ट आया, तो मदन मोहन मालवीय जी जैसे आदमी ने, मोहम्मद जिन्नाह जैसे आदमी ने और मोती लाल नेहरू जैसे आदमी ने उसका पुरजोर विरोध किया और गांधी जी ने उन्हें तार देकर कहा कि यह राक्षसी कानून है, तुम लोगों को इसका विरोध करना चाहिए। दुनियां की दूसरी लड़ाई के बाद डी.आई.आर. का कानून आया और अंग्रेजी सरकार ने उसका उपयोग सभी जानते हैं कि स्वतंत्रता संग्राम सेनानियों के खिलाफ किया और उसी का अनुभव लेते हुए, हमारे संविधान निर्माताओं ने, अपने संविधान के तहत, प्रिवेंटिव डिटेंशन के कानून से परहेज किया था, लेकिन देश की आजादी के तत्काल बाद, सभी जानते हैं कि तेलंगाना का आन्दोलन हुआ और उस आन्दोलन में इस देश में जबर्दस्त हिंसक घटनाएं हुई। इसलिए भारत के संविधान में पहला संशोधन प्रिवेंटिव डिटेंशन के कानून का हुआ। इसके विरोध में गोपालन साहब ने सुप्रीम कोर्ट में हैबियस कार्पस याचिका दाखिल की और सुप्रीम कोर्ट ने उस कानून को खारिज कर दिया था। उसके बाद जो अमेंडमेंट हुआ, उससे प्रिवेंशन डिटेंशन का कानून फिर अस्तित्व में आया।

महोदय, चूंकि तस्करी रोकनी है, इसलिए श्रीमती इंदिरा गांधी ने अपने जमाने में मीसा का कानून बनाया फिर पोसा का कानून बनाया, लेकिन जब इमर्जेंसी लगी, तो उसका पूरा-पूरा उपयोग, जो राजनीतिक कार्यकर्ता थे, उनके खिलाफ उनकी सरकार ने किया। अपने अनुभव के आधार पर हम कह सकते हैं कि इसी सदन के दो माननीय सदस्य, जब टाडा का कानून आया, तो श्री कल्पनाथ राय जैसे व्यक्ति, श्री बृज भूषण शरण सिंह जैसे व्यक्ति, डेढ़-डेढ़ साल तक जेल में रहे और अन्त में सुप्रीम कोर्ट को हस्तक्षेप करना पड़ा कि इनके खिलाफ इस तरह के कानून के दुरुपयोग करने का किसी पुलिस अधिकारी को अधिकार नहीं है और उसके बाद सुप्रीम कोर्ट ने उन दोनों को रिहा किया। जब हम इस तरह के कानून बनाते हैं और यदि उसका दुरुपयोग श्री कल्पनाथ राय जैसे व्यक्ति के खिलाफ हो सकता है, हम लोगों के खिलाफ हो सकता है, 21-21 महीने हम जेल में रह सकते हैं, तो इसके दुरुपयोग होने की संभावनाएं पूबल हो जाती हैं, लेकिन इसी बहाने हम इस बात से भी परहेज नहीं कर सकते कि इस देश में आतंकवादी गतिविधियों को फैलाने वालों को दंडित करने के कठिन कानून हैं, इस बात से भी हम परहेज नहीं कर सकते। इसलिए भारत सरकार ने इसमें जो संशोधन प्रस्तुत किया है, हम उसका स्वागत करना चाहते हैं।

महोदय, इसमें दो बातें कही गई हैं कि भारत के ज्यादातर फौजी कानून के तहत किसी भी व्यक्ति के खिलाफ चार्जशीट दाखिल करने और जांच करने की अवधि 90 दिन की निर्धारित है। हम निजी अनुभव से कह सकते हैं कि 90 दिन पूरे होने के बाद भी, बहुत से लोगों को कोर्ट से जमानत नहीं मिलती। यदि किसी दंड विधान में, कानून में ऐसे प्रावधान हैं कि अधिकतम छः महीने की सजा हो सकती है, तो ऐसे बहुत सारे अंडर ट्रायल्स को हम जानते हैं जिनका छः-छः महीने ट्रायल ही नहीं होता और वे जेल के भीतर ही बैठे रहते हैं। इसलिए प्रावधान होना अपनी जगह एक बात है और प्रावधान का दुरुपयोग न हो, इसके लिए भी कुछ सेफगार्ड निर्धारित किए जाने चाहिए।

महोदय, जैसे पहले प्रिवेंटिव डिटेंशन का कानून आया, उसके लिए सूबे में हर जगह भारत सरकार और उत्तर प्रदेश सरकार ने या किसी भी राज्य की सरकार ने उस कानून के ही तहत एक बोर्ड का गठन किया कि जिस अभियुक्त को इस कानून के तहत गिरफ्तार किया गया है उसकी वह बोर्ड सुनवाई करेगा कि उसकी गिरफ्तारी सही है, प्रावधानों के अनुकूल है या नहीं। यह एक व्यवस्था उस समय थी। अभी आपने जो कानून रखा है, इसमें हमें इस तरह की व्यवस्था दिखाई नहीं पड़ी[r53], इसलिए हम गृह मंत्री जी से आग्रह करना चाहते हैं कि जब हम इस तरह के कठोर कानून का प्रावधान कर रहे हैं, जिसका हम समर्थन कर रहे हैं तो उस कानून का दुरुपयोग न हो, उसके लिए एक सेफगार्ड के मकेनिज्म की भी व्यवस्था हमें इस कानून के तहत करनी चाहिए, तो मैं समझता हूं कि इसमें दुरुपयोग की सम्भावनाएं थोड़ी कम हो जाएंगी।

जिस तरह की हमारे देश में पुलिस मशीनरी है, कानूनों के दुरुपयोग हुए हैं और होते रहेंगे। एक आपत्ति की गई कि आपने किसी की चार्जशीट को फाइल करने के लिए 180 दिन कर दिया, लेकिन यदि आप राष्ट्रीय जांच एजेंसी के कानून को पढ़ें तो उसमें कहा गया है कि यदि किसी क्षेत्र में कोई घटना होती है तो वहां का मुकामी पुलिस स्टेशन पहले उसको पकड़ेगा, पकड़ने के बाद अपनी डायरी में लिखेगा कि यह साधारण अपराध की घटना नहीं है, बल्कि आतंकवाद की घटना है। वह अपने प्रदेश की सरकार को उस केस को रैफर करेगा। प्रदेश की सरकार उस रैफरेंस के बाद उसकी समीक्षा करेगी, फिर प्रदेश की सरकार, चाहे हमारी केन्द्रीय जांच एजेंसी होगी, राष्ट्रीय जांच एजेंसी होगी, उसको लिखकर भेजेगी तो इसके बीच में केन्द्रीय जांच एजेंसी जब संतुष्ट हो जाएगी तो उस केस को अपनी जांच की परिधि में ले लेगी। तब तक जो मुकामी थाना है, वह उसकी जांच करता रहेगा। यह 180 दिन का प्रावधान, मैं ऐसा समझता हूं कि केवल इस मंशा से किया गया कि केन्द्रीय जांच एजेंसी के पास केस आते-आते महीने, दो महीने, तीन महीने भी लग सकते हैं, इसलिए 180 दिन का प्रावधान, मैं ऐसा समझता हूं कि बिल्कुल जायज है और इसका प्रावधान किये जाने के लिए जो इस कानून के बनाने वालों को हम धन्यवाद देना चाहते हैं।

इन्हीं शब्दों के साथ हम कुछ खास बातें सुझाव के तौर पर गृह मंत्री जी से कहना चाहते हैं। बहुत हो चुका, इस देश में, अपराधी पकड़े जाते हैं और उसके बाद वे भारत सरकार को प्रैशराइज़ करते हैं और ब्लैकमेल करके अपने कुछ साथियों को छुड़ाते हैं। ऐसी 3-4 घटनाएं इस देश में हुई। वी.पी. सिंह की सरकार बनी। सरकार बनने के थोड़े ही दिन बाद गृह मंत्री की लड़की का अपहरण हुआ और उस अपहरण से उसको मुक्त कराने के लिए जाने कितने अपराधी छोड़े गये, जो बहुत दिन से आतंकवादी इस देश के अन्दर विभिन्न जेलों में थे। अब हम उस बहस में नहीं जाना चाहते कि क्या किया। कंधार में ले जाकर रिश्तेदार की तरह उनको छोड़ा। बाद में बयान आये कि गृह मंत्री और उस सरकार के रक्षा मंत्री तक को जानकारी नहीं थी। प्रावधान किये जाने चाहिए, जैसे दो कानून इस देश में हरिजन उत्पीड़न के हैं और दहेज उत्पीड़न के कानून बने हैं। उन दोनों कानूनों में लिखा हुआ है कि जो इन्वेस्टीगेटिंग व्यक्ति होगा, यदि जान-बूझकर वह किसी को छोड़ देगा तो वह दोनों अपराध की जो धाराएं हैं, उस व्यक्ति के ऊपर भी लागू हो जाएंगी। हम साफ तौर पर कहना चाहते हैं कि अपराधी को किसी भी ब्लैकमेल में आकर कोई भी सरकार अगर छोड़ती है तो उस सरकार के मंत्रियों के खिलाफ भी इस कानून को इस्तेमाल किया जाना चाहिए, इस बात को हम गम्भीरतापूर्वक रखना चाहते हैं।

कहा जाता है कि इस सरकार ने इस मुम्बई के आन्दोलन के बाद क्या किया? उसके बाद तो हम इस लीपापोती में नहीं पड़ते कि आपने क्या किया। मुझे ठीक से याद है कि जब इस पार्लियामेंट के ऊपर आक्रमण हुए, हमले हुए, उस समय टेलीविज़न को मैं वाच कर रहा था और उस जमाने के गृह मंत्री ने कहा कि पाकिस्तान को इसका दंड भोगना पड़ेगा और दंड कैसे भोगना पड़ेगा, हिन्दुस्तान की किसी भी सरहद पर जो सेना तैनात थी, वह पाकिस्तान की सीमा पर लाकर खड़ी कर दी गई और रोजाना दुनिया वाच करती थी कि भारत पाकिस्तान पर आक्रमण करने वाला है। अब आजकल हम रोज़ उन्हीं नेताओं के बयान पढ़ते हैं कि भारत को पाकिस्तान पर अटैक कर देना चाहिए। लेकिन देश भर की सेनाएं लाकर आपने पश्चिमोत्तर सीमा पर एक साल खड़ी रखीं, किसी ने नहीं पूछा कि किन कारणों से सेना को पश्चिमोत्तर सीमा पर आपने खड़ा किया और किन कारणों से एक साल एक महीने बाद उन सभी सेनाओं को अपनी बैरक में, जहां-जहां वे तैनात थीं, वहां भेज दिया। अरबों रुपया इस देश का बर्बाद हुआ। आम को लकुवी शगुन बतावें, अपने कुकरन से पिटवावें।

इस देश में कभी भी आतंकवाद का मुकाबला हम इस तरह के कानूनों से नहीं कर सकते। संकल्पशक्ति से कर सकते हैं और उस संकल्पशक्ति का अभाव हमेशा दिखाई पड़ता

है, मैं इस बात को बहुत ही दुख के साथ कहना चाहता हूं[R54] , इसलिए भारत सरकार को इसके विरूद्ध लड़ने के लिए एक संकल्पशक्ति प्रदर्शित करनी चाहिए और इस बात का भी प्रदर्शन होना चाहिए कि आतंकवाद के विरूद्ध के लड़ने में सारी राजनीतिक पार्टियां, सारे राजनीतिक नेता और सारी जनता एक है।

इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूं।

श्री देवेन्द्र प्रसाद यादव (झंझारपुर) : महोदय, आज राष्ट्रीय अन्वेषण अभिकरण विधेयक, 2008 और द अनलॉफुल एक्टिविटीज प्रिवेन्शन एमेंडमेंट बिल, 2008 पर सदन विचार कर रहा है। इन दोनों विधेयकों पर संपूर्ण देश की आज चट्टानी एकता दिखनी चाहिए थी। इसमें बिल्कुल पारदर्शिता दिखनी चाहिए कि हमारे देश के सभी लोग एकजुट हैं, आतंकवाद के विरूद्ध संपूर्ण सदन एकजुट है। जब 11 तारीख को आतंकवाद पर बहस हो रही थी, तो मैंने माननीय विपक्ष के नेता के अंदर वह भाव देखा था, लेकिन आज पता नहीं कैसे वे हिडेन एजेंडे पर चले गए? इसीलिए मुझे आज उन बातों का भी जिक्र करना होगा। आखिर जब आतंकवाद के खिलाफ युद्ध करना है, आतंकवाद का खात्मा करना है, उसे मिटाना है, उससे लड़ने के लिए पूरे देश को, आवाम को एक संकल्प लेना है, ऐसे समय में हिडेन एजेंडे को लाना दुर्भाग्यपूर्ण है।

मैं कहना चाहता हूं कि जो फिदाईन हैं, वे बाहरी आतंकवादी हैं। बाहरी आतंकवादी इतने ताकतवर हो जाते हैं, उनके हाथ इतने मजबूत हो जाते हैं कि देश के अंदर आकर वे भाग भी जाते हैं, जबकि कुछ मारे भी जाते हैं। हमारे देश के अंदर जो आंतरिक सुरक्षा है, नागरिकों की सुरक्षा है, उसका वे नाश कर देते हैं, यहां तक कि संस्था पर भी हमला कर देते हैं। मैं इसीलिए कहना चाहता हूं कि ये बाहरी आतंकवादी फिदाईन हैं। यहां दो तरह की बातें हैं। जब तक देश के अंदर सांप्रदायिक सद्भाव मजबूत नहीं रहेगा, देश की एकता महफूज नहीं रहेगी। सभी धर्मों, चाहे वह हिंदू हो, मुसलमान हो, सिख हो, ईसाई हो, हमारे यहां जितनी बिरादरी हैं, सब को एकजुट होना पड़ेगा। इसको कौन तोड़ता है, कम्युनल भारत कौन ला रहा है, यह भी आज बहस करने का एक विषय है। आतंकवाद से लड़ने के लिए सांप्रदायिक सद्भाव को मजबूत करना जरूरी है। यह पहला कर्तव्य है। बिना सांप्रदायिक सद्भाव को मजबूत किए आतंकवाद से लड़ना कठिन होगा। मैं इसीलिए इस सवाल का जिक्र करना चाहता हूं कि देश के अंदर आतंकवाद कब से प्रारंभ हुआ? आज हम बहुत नेक विधेयक पर चर्चा में जुटे हैं। बाबरी मस्जिद का ध्वंस हुआ, तब से जो कम्युनल पोलिंग है, कम्युनल वायरस है, उसका जन्म हुआ। उस समय से यह शुरू हुआ। माननीय विपक्ष के नेता उस समय जम्मू-कश्मीर के इंचार्ज भी थे, गृहमंत्री भी थे, उस समय जम्मू-कश्मीर में क्या-क्या हुआ? किन-किन जगहों पर आतंकी हमला हुआ? विधान सभा से लेकर, रघुनाथ मंदिर से लेकर, लालकिला से लेकर, संसद तक को नहीं बचा पाए। संसद पर भी आतंकी हमला हुआ। आपको मालूम है कि लालकिला भी महफूज नहीं रह सका। मैं इसीलिए कहना चाहता हूं कि सबसे ज्यादा आतंकी हमले वर्ष 2001 से शुरू हुए। यदि सही रूप से देखा जाए, तो यह स्पष्ट हो जाएगा। उस समय क्या पोटा कानून नहीं था? पोटा कानून था, लेकिन पोटा कानून के बावजूद भी ऐसा हुआ। हम लोगों को पता लगा कि झारखंड सहित कई राज्यों में 80 वर्ष के वृद्ध लोगों के ऊपर पोटा कानून लगाया गया, बड़े पैमाने पर पोटा कानून का दुरूपयोग किया गया। 80 वर्ष के बूढ़े को भी नहीं छोड़ा गया और जो 9,10,11 या 15 साल के बच्चे थे, उनको भी पोटा कानून के अंदर रख दिया गया। पोटा इसीलिए फेल्योर हुआ। पोटा इसीलिए लोटा में चला गया। पोटा का जो असर था, उसका किसी खास वर्ग को टार्गेट करके इस देश में उपयोग किया गया। ...(व्यवधान) इससे एक अलग तरह की भावना इस देश में फैली। ...(व्यवधान) आज ही बोलने का वक्त है। आपने एजेंडा खोल दिया है। आपका इशारा उधर ही है, इसीलिए मैं इस बात को कहना चाहता हूं। ...(व्यवधान)

सभापति महोदय, मैं आपकी तरफ मुखातिब होकर बोलना चाहता हूं। उदय सिंह जी टोकते हैं, तो मैं कहना चाहता हूं कि आज इस बात की जांच गृहमंत्री जी करें कि आईएसआई और संघ परिवार का देश में क्या संबंध है, इसकी जांच की जाए। यह जांच हो जाए कि कैसे मालेगांव की घटना होती है, मालेगांव की घटना से किनके तार जुड़े हुए हैं? इसकी भी जांच होनी चाहिए। [p55]

जब हम आतंकवाद पर समूल रूप से विचार कर रहे हैं तो क्या मालेगांव की घटना, जो लोग विस्फोट में संलिप्त हैं, जो शहीद हो गए, बलिदान हो गए, श्री हेमंत करकरे, एटीएस के प्रमुख थे, उनके खिलाफ महाराष्ट्र बंद करने की कॉल किसने दी थी? दो दिन बाद वे शहीद होते हैं, दो दिन पहले महाराष्ट्र बंद की कॉल किस दल ने दी थी? इस देश के अंदर कौन सी ऐसी ताकत थी जिसने इस तरह की कॉल दी? वह बजरंग दल था, आरएसएस था, कौन सी सेना थी, वह आप बताइए। ...(व्यवधान) बीजेपी थी, विद्यार्थी परिषद थी, कौन था, यह भी पता लगाने की जरूरत है। मैं समझता हूं कि इन ताकतों पर विचार किए बिना बहस अधूरी होगी। सांप्रदायिक सद्भाव को बिगाड़ने वाले जो तत्व हैं, फंडामेंटलिस्ट ताकत, जो कट्टरपंथी ताकत है, जो कट्टरपंथी विचारधारा वाला संगठन है, यदि आप समूल रूप से आतंकवाद पर रोक लगाना चाहते हैं तो उसे भी बिल की परिधि में लाना चाहिए। बजरंग दल, विश्व हिन्दू परिषद, आरएसएस आदि पर बिना प्रतिबंध लगाए इंसाफ नहीं होगा, हम आतंकवाद के खिलाफ समूल रूप से नहीं लड़ पाएंगे।...(व्यवधान)

मैंने उस दिन कहा था तो कुछ माननीय सदस्यों को बहुत तकलीफ हो गई थी। पूरे देश में कहीं देशभक्ति नहीं जगी। मुम्बई में जब घटना घटी, एटीएस चीफ, श्री हेमंत करकरे का बलिदान हुआ, देश के जितने चीफ मिनिस्टर हैं, किसी में देशभक्ति नहीं जगी, बगल के चीफ मिनिस्टर, गुजरात के एक मुख्य मंत्री के अंदर देशभक्ति जगी और वे एक करोड़ रुपये का थैला लेकर वहां पहुंच गए। पहले कुछ लोगों ने जश्न मनाया कि चलो, करकरे चला गया, अब मालेगांव की आतंकवादी घटना का जो तार था, उससे हम बच जाएंगे।...(व्यवधान) यह शर्मनाक वाकया है। इसके बाद थैला लेकर जाते हैं। उनकी पत्नी भी बहादुर थी। एक निष्ठावान अधिकारी की पत्नी ने नकार दिया। उन्होंने कहा कि देशभक्ति की एवज में हमें आपके एक करोड़ रुपये का मुआवजा नहीं चाहिए।...(व्यवधान) उन्होंने जश्न मनाने वाले लोगों का रुपया नकार दिया। मैं आज इस बात का जिक्र इसलिए करना चाहता हूं। कारगिल में क्या हुआ था?...(व्यवधान) आतंकवाद पर बहस हो रही है तो वह कारगिल को छोड़कर नहीं हो सकती। चाहे पाकिस्तानी आतंकवादी हों, चाहे अफगानिस्तानी हों, पाकिस्तान और भारत की बात ...(व्यवधान) मैं यील्ड नहीं कर रहा हूं।...(व्यवधान)

हम आपको यील्ड नहीं कर रहे हैं। सभापति जी, परमीशन कैसे दी जाएगी।...(व्यवधान) आप कैसे बोल सकते हैं।...(व्यवधान)

सभापति महोदय : आप सीधे चेयर की तरफ देखकर बोलिए।

â€¦(व्यवधान)

श्री बिक्रम केशरी देव (कालाहांडी) : महोदय, माननीय सदस्य जो कह रहे हैं कि जश्न मनाया गया, मैं कहना चाहता हूं कि क्या किसी के मरने पर जश्न मनाया जाता है?...(व्यवधान)

श्री देवेन्द्र प्रसाद यादव : बिल में सशोधन करके फरवरी में एक और बिल लाना पड़ेगा जिसमें इन चीजों को जोड़ना पड़ेगा।...(व्यवधान) यह बिल अधूरा रह गया है।...(व्यवधान) आप बैठ जाइए।...(व्यवधान) मैं बिल पर बोलूंगा।...(व्यवधान) मैं आतंकवाद के बारे में बोल रहा हूं कि आतंकवाद कैसे रुकेगा।...(व्यवधान) आतंकवाद केवल कानून बनाने से नहीं रुकने वाला है। मैं आपसे कहना चाहता हूं कि आप समाज में जो जहर घोलते हैं, उसे भी रोकना जरूरी है, तभी आतंकवाद रुक सकता है, कानून बनाकर आतंकवाद नहीं रुक सकता।...(व्यवधान)

सभापति महोदय : जब आपकी बोलने की बारी आएगी, तब आप बोलिए।

â€¦(व्यवधान)

श्री देवेन्द्र प्रसाद यादव : इसीलिए मैंने कहा कि यह बिल अधूरा है, इसमें और बिन्दु जोड़ने की जरूरत है।...(व्यवधान) कारगिल में क्या हुआ था? अभी हमारे मित्र मोहन सिंह जी ने कहा, मैंने उस दिन बोल दिया था, मैं उसे दुबारा रिपीट नहीं करना चाहता कि गंधार में आतंकवादी कैसे छोड़े गए।...(व्यवधान)

कई माननीय सदस्य : गंधार नहीं कंधार है।...(व्यवधान)

श्री देवेन्द्र प्रसाद यादव : आप पुराना इतिहास पढ़िए, उसमें गंधार लिखा है। कंधार अब हुआ है, पहले गंधार था।...(व्यवधान) इतिहास पढ़िए। क्या बीजेपी को इतिहास का भी ज्ञान नहीं है? हम भारतीय संस्कृति वाला नाम बोलते हैं।...(व्यवधान) क्या आपको महाभारत का ज्ञान नहीं है? क्या आपने महाभारत में गांधारी का नाम नहीं सुना है?...(व्यवधान)

सभापति महोदय : आप विषय पर बात कीजिए।

â€¦(व्यवधान)

सभापति महोदय : आप आपस में चर्चा मत कीजिए। चेयर को संबोधित करके बोलिए। यदि विषय पर बात करेंगे तो अच्छा होगा।...(व्यवधान)[N56]

श्री देवेन्द्र प्रसाद यादव : सभापति महोदय, कारगिल में आतंकवादी, चाहे अफगानिस्तान के हों या पाकिस्तान के हों, बाहरी भाड़े पर घुस गये। इन्होंने एक आतंकवादी उधर छोड़ा और दूसरे आतंकवादी इधर घुस गये। डेढ़ महीने तक लगातार कारगिल में, अपने देश में बमबारी होती रही। आज तक दुनिया के इतिहास में ऐसा कोई वक्त नहीं मिलेगा, ऐसी कोई मिसाल नहीं मिलेगी, जब अपने ही देश में, कारगिल में वे लोग बमबारी करते रहे और ये लोग सोये रहे। उस बमबारी का क्या नतीजा हुआ? अब ये लोग बतायें कि बाहर कहीं एक जगह भी आतंकवादी ठिकाने पर आपकी बमबारी हुई हो? डेढ़ महीने तक लगातार कारगिल में वे लोग बमबारी करते रहे। उसमें देश के कितने जवान शहीद हो गये। उस समय के तत्कालीन प्रधानमंत्री ने बड़े जोर-शोर से कहा था ...(व्यवधान)

सभापति महोदय : आप प्रॉमटिंग न करें।

â€¦(व्यवधान)

श्री देवेन्द्र प्रसाद यादव : जब कारगिल का मुद्दा आया तब उन्होंने कहा था कि यह लड़ाई अब आर-पार की लड़ाई है। आर-पार की लड़ाई--इस पार आतंकवादी घुसा दिये और उस पार आतंकवादी को छोड़ दिया, क्या यही आर-पार की लड़ाई थी। आर-पार की लड़ाई का रिजल्ट क्या हुआ? उसका रिजल्ट यह है कि आतंकवादी को मेहमान की तरह उधर छोड़ दो और दूसरी तरफ आतंकवादियों को कारगिल में घुसा दो। यही आर-पार की लड़ाई है। ...(व्यवधान)

सभापति महोदय : आप बिल पर बोलिये। आप विधेयक पर बोलें, तो अच्छा होगा।

â€¦(व्यवधान)

श्री देवेन्द्र प्रसाद यादव : ठीक है, लालू जी का कहना है कि आर छोड़कर पार हुए। चलिए उनकी बात रहने दीजिए। ...(व्यवधान) मेरे कहने का यह मतलब है ...(व्यवधान)

सभापति महोदय, जब बहुसंख्यक आतंकवादी होगा, इसलिए मैंने चर्चा की थी कि जब बहुसंख्यक आतंकवादी होगा, तो देश की, दुनिया की कोई भी फौज देश में आतंकवाद को नहीं रोक सकती। यह मेरा कहना है, यह मेरा निश्चित मत है। डॉ. राम मनोहर लोहिया ने इसी सदन में कहा था। उनका 1962-63 का भाषण है। उन्होंने हैदराबाद में भी साफ कहा था। डॉ. राम मनोहर लोहिया दार्शनिक थे, विचारक थे। उन्होंने साफ-साफ कहा था। ...(व्यवधान) वे धर्मनिरपेक्षता पर बोलते थे, जो हमारे संविधान का अंग है। हमारा संविधान धर्मनिरपेक्ष है। यदि भारत में बहुसंख्यक आतंकवादी हो जायेगा, तो इस देश में कोई भी फौज उसको कंट्रोल नहीं कर सकती, इसलिए बहुसंख्यक पर विचार करना पड़ेगा। ...(व्यवधान) ये लोग फैला रहे हैं। बहुसंख्यक में जहर फैला रहे हैं। इस देश में बहुसंख्यक आतंकवादी नहीं हैं। ...(व्यवधान)

सभापति महोदय : पार्टी का निर्धारित समय पूरा हो रहा है। आप विषय पर आइये और अपना भाषण कन्कलूड कीजिए।

â€¦(व्यवधान)

श्री राम कृपाल यादव (पटना) : सभापति महोदय, अभी हमें भी बोलना है। ...(व्यवधान)

सभापति महोदय : अगर यह पार्टी का सारा समय बोल लेंगे, तो आपको बोलने का समय कैसे मिलेगा? **श्री देवेन्द्र प्रसाद यादव :** सभापति महोदय, मैं बिल पर भी चर्चा करता हूं। इन्होंने पहले ही आतंकवाद की चर्चा की। अब आतंकवाद को कैसे रोका जाये, इस पर तो हमें बोलना ही था। आतंकवाद केवल कानून बनाने से ही खत्म नहीं होगा। केवल एक बिल बनाने से आतंकवाद नहीं रुकेगा। आतंकवाद के लिए संकल्प जरूरी है, इच्छाशक्ति जरूरी है। इसलिए मैं यह कहना चाहता हूं।

आपने कहा कि पाकिस्तान और हिन्दुस्तान--पाकिस्तान में जो टेरोरिस्ट है, उसके खिलाफ हम हैं। पाकिस्तान में जो आईएसआई है, फिदायीन है, मुजाहिद हैं, उनके खिलाफ हम हैं। पाकिस्तान की अवाम के खिलाफ राष्ट्रीय जनता दल यानी हमारी पार्टी नहीं है। हम अवाम के साथ हैं। पाकिस्तान की जनता, हिन्दुस्तान की जनता एक है। केवल वहां जो टेरोरिस्ट गतिविधियां हैं, क्योंकि माननीय सदस्य ने ठीक कहा था कि कई पाकिस्तान हैं। एक फिदायीन वाला पाकिस्तान है। एक पाकिस्तान वह है जिसमें आतंकवादी

ट्रेनिंग लेते हैं। एक आक्यूपाइड कश्मीर है, उसमें अलग पाकिस्तान है। एक आईएसआई का पाकिस्तान है। एक मुजाहिदों का पाकिस्तान है। गजब का पाकिस्तान है। इस पाकिस्तान में कुछ लोकतांत्रिक लोग भी हैं। जरदारी, जो वहां के राष्ट्रपति हैं, उनका पाकिस्तान भी है। पाकिस्तान में जो लोग लोकतंत्र को मानने वाले हैं, जो जम्हूरियत को मानने वाले हैं, उनसे हमारा कोई झगड़ा नहीं है। ...(व्यवधान)

सभापति महोदय, मैं बिल के विषय में इतना ही कहना चाहता हूं कि यह जो कानून बना है, वह अधूरा है। लेकिन मैं कहना चाहता हूं कि इसमें हिरासत की अवधि 90 दिन से बढ़ाकर 180 दिन की गयी है। मैं यह कहना चाहता हूं कि इस पर कोई संशोधन लाना हो, तो आप वह संशोधन लाइये।[MSOffice57]

यह ठीक है कि माननीय मंत्री जी ने बहुत साफगोई से कहा कि राज्य सरकार को भी जांच में शामिल किया जाएगा और जब तक आरोप साबित नहीं हो जाएगा, तब तक दण्ड की कार्यवाही नहीं होगी। लेकिन इसको ज्यादा बढ़ाने की आवश्यकता नहीं थी। जब संकल्प है कि हमें आतंकवाद के खिलाफ लड़ना है, तो उतने ही दिनों में साक्ष्य क्यों नहीं इकट्ठे किए जा सकते हैं। इसमें इसके लिए एक साल का समय दिया गया है, इसलिए इसमें कुछ संशोधन करने की जरूरत है। उस आदमी की बेल छः महीने के बाद, 180 दिन के बाद होगी। यदि कोई रास्ते में चलते हुए गाड़ी में लिफ्ट ले ले, कोई उसे पानी पिला दे, कोई उनका मोबाइल नंबर टेप कर ले, आजकल दुनिया में किसी का नंबर कोई भी जान सकता है, तो उनको क्या उसमें संलिप्त माना जाएगा? इन खामियों को देखना चाहिए क्योंकि नागरिकों के मानवाधिकारों का किसी भी तरह से हनन नहीं होना चाहिए, इसके लिए इस बिल में सेफगार्ड्स कायम होने चाहिए। दोषी को किसी भी तरह से दण्डित करना चाहिए और उसमें किसी तरह की कमी नहीं होनी चाहिए। यदि प्रथम दृष्टया आरोप साबित हो जाए तो दोषी पर निश्चित रूप से कार्यवाही होनी चाहिए, उसे कठोर से कठोर दण्ड देना चाहिए। आतंकवाद से हम कोई समझौता नहीं कर सकते हैं, लेकिन समूचे देश के सभी नागरिकों को एक दृष्टि से देखें, इसमें कोई भेदभाव नहीं होना चाहिए और एक संकल्प लेकर आतंकवाद के खिलाफ लड़ना चाहिए। हम इसीलिए इस बिल का समर्थन करना चाहते हैं क्योंकि यह बिल आतंकवाद को रोकने के लिए, आतंकवादियों को दण्डित करने के लिए आया है, लेकिन जैसा कि मैंने शुरू में ही अर्ज किया है कि टेररिज्म और कम्युनलिज्म, दोनों जुड़वा बहनें हैं। इसलिए हमें दोनों पर ध्यान पड़ेगा।

इसी के साथ मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूं।

श्री अनंत गंगाराम गीते (रत्नागिरि): महोदय, मुंबई में आतंकी हमले के बाद पूरे देश में एक क्रोध उभर आया और देश की जनता का क्रोध इतना बढ़ गया है कि अब सरकार भी उस क्रोध का एहसास करने लगी है, इसीलिए सरकार की ओर से गृहमंत्री जी ने ये दो विधेयक, नेशनल इनवेस्टीगेशन एजेंसी बनाने संबंधी विधेयक और अनलॉफुल एक्टिविटीज प्रिवेंशन अमेंडमेंट बिल सदन के सामने रखे हैं। इन दोनों विधेयकों पर चर्चा आज यहां हो रही है।

महोदय, आम आदमी में जो गुस्सा है, उसके कुछ उदाहरण मैं सदन के सामने रखना चाहूंगा। ऐसी अनेक चिट्ठियां हैं जो मुंबई और दिल्ली के पते पर मुझे और मुझ जैसे कई सांसदों के पास आई हैं। इन खतों में से अधिकतर खत महिलाओं द्वारा लिखे गए हैं। कुछ खतों को मैं यहां पर लाया हूं, जो मेरे पास पोस्ट से आए हैं। इनसे यह महसूस होता है कि देश का आम आदमी कितना क्रोधित है।...(व्यवधान) अगर महिलाओं पर भी इनको आपत्ति हो, तो चर्चा करना बेमतलब है। मैं इन खतों को सदन के सामने रखने जा रहा हूं।

रेल मंत्री (श्री लालू प्रसाद) : आपकी सेना ने क्या किया है।

श्री अनंत गंगाराम गीते : मैं उसके बारे में भी बताने जा रहा हूं।[R58]

सभापति जी, एक खत है जिसे मैं पूरा न पढ़कर आखिरी पंक्ति पढ़ता हूं। "Attack Pakistan before they will again attack." पाकिस्तान के फिर हमला करने से पहले उस पर अटैक करिये। नीचे लिखा है, From India's daughter, Rupali Kadam. साहस की बात यह है कि उसने अपना मोबाइल नम्बर दिया है। यह गुमनाम खत नहीं है। एक दूसरा खत है जो मराठी में है। इसे भी एक बहन ने लिखा है। मैं मराठी में इसे पढ़ता हूं, फिर हिंदी में आपको बता दूंगा। खत केवल दो लाइन का है। मराठी में यह खत लिखा है। ...(व्यवधान) इसमें लिखा है कि अलग-अलग भाषा, धर्म, जाति और पंतों से बना हमारा देश है, इस देश की जनता शांति और अमन चाहती है और आतंकवादी जो हमला हुआ है उसके खिलाफ पाकिस्तान के साथ युद्ध करें। इस प्रकार की इसकी भावना है। लिखने वाली महिला का नाम सुप्रिया वीरा काटकर है, उसने थाणे का एड्रेस दिया है और वह वागले स्टेट की रहने वाली है तथा उसने भी अपना फोन नम्बर दिया है। एक उमेश पाटिल है, उन्होंने भी इसी प्रकार से दो लाइन का खत लिखा है। "I am supporting our Government to attack Pakistan and my wishes to our soldiers. Jai Hind." ऐसे ही ये सारे खत हैं। सुविता पाटिल नाम की लेडी का भी एक खत है। जिन्होंने खत लिखे हैं, मैं केवल उनका नाम पढ़ता हूं। एक महिला हैं वीरा, यह उनका खत है, एक महिला अश्विनी वीरा हैं, यह उनका खत है। इतना क्रोध देश की जनता में है। इसीलिए जब हमने इस विषय पर चर्चा की, पहली बार, इस आतंकी हमले के खिलाफ, जैसे सारा देश युनाइट हुआ है, उसी तरह से यह सदन भी युनाइट हुआ है। इस सदन में उसी प्रकार से चर्चा हुई और सदन में हमने एक मत से एक रैजोल्यूशन पारित किया। हमने आतंकी हमले और पाकिस्तान की निंदा की और जो शहीद हुए उन्हें सदन में श्रद्धांजलि दी।

माननीय आडवाणी जी ने आज जब इस बहस को शुरू किया, उन्होंने उस दिन जो अपना वक्तव्य दिया था उसी को लेकर उन्होंने यहां पर अपनी बात को कहा। माननीय डीपी यादव जी जब यहां बोल रहे थे, बार-बार कह रहे थे कि आतंक से लड़ने के लिए कानून की जरूरत नहीं, यह कानून कुछ नहीं कर सकता, कानून के द्वारा हम उनसे टकरा नहीं सकते।

श्री देवेन्द्र प्रसाद यादव : संकल्प जरूरी है।

श्री अनंत गंगाराम गीते : संकल्प जरूरी है लेकिन सवाल यह उठता है कि सरकार ने कानून लाकर जो कदम उठाया है क्या वह गलत है, क्या आप इस कदम को गलत मानते हैं, क्या सरकार ने गलती की है और क्या आप इसका विरोध करने वाले हैं?

श्री देवेन्द्र प्रसाद यादव : कानून के बनने के बाद भी फिदायीन आ जाएंगे। मरता क्या नहीं करता। मरने वाला कुछ भी करेगा। हमें संकल्प लेना होगा।

श्री अनंत गंगाराम गीते : संकल्प किसका। संकल्प किसका होना चाहिए?

सभापति महोदय : आप सीधा सवाल-जवाब करें। आपस में बात न करें।

श्री अनंत गंगाराम गीते : यह संकल्प सरकार का होना चाहिए। सभापति जी, मैं सरकार को धन्यवाद देता हूं, जैसे माननीय गृह मंत्री जी ने इस चर्चा के संबंध में बयान दिया, उन्होंने कहा कि हम दो नये कानून बनाने जा रहे हैं, इस सदन में हम इस कानून को लाएंगे और इसी सत्र में इसे पारित किया जाए।[r59]

आज जब सुबह सदन में मंत्री जी ने इस कानून को पेश किया, तब भी उन्होंने मांग की कि आज ही इस कानून को पास किया जाए। इससे पता चलता है कि यह कानून कितना महत्व रखता है कि सरकार आज ही इस कानून को पास कराना चाहती है। यदि कानून का कोई महत्व नहीं है, तो यह बहस बिना मतलब की है। आप चाहे कुछ भी नाम दो, मैं तो कहता हूं कि यह मिनी पोटा है। आज दस साल के बाद सरकार ने कम से कम इस बात का एहसास किया कि आतंक से लड़ने के लिए कड़े कानून की आवश्यकता है। वह समय हम पर न आए कि सरकार को यह कहने पर मजबूर होना पड़े कि पोटा से भी अधिक कड़े कानून को बनाने की आवश्यकता है।...(व्यवधान) शिव सेना ने क्या किया, यह आपको पता चलेगा। आज का यह विषय नहीं है। आप मुम्बई के सभी अस्पतालों के ब्लड बैंक्स में जाइए और पूछिए कि वहां किन लोगों ने रक्तदान किया है।...(व्यवधान)

सभापति महोदय : आप चेयर को सम्बोधित करते हुए बोलें।

श्री अनंत गंगाराम गीते : आप मुम्बई के अस्पतालों में जा कर देखिए कि जख्मी लोगों की खून की जरूरत किसने पूरी की है।

सभापति महोदय : श्री गीते के भाषण के अलावा कुछ भी रिकार्ड में नहीं जाएगा।

श्री अनंत गंगाराम गीते : सभापति महोदय, हमें सख्त कानून बनाने की तो आवश्यकता है ही, लेकिन साथ में सरकार को संकल्प लेने की भी आवश्यकता है कि इस कानून को सख्ती से लागू करे। मुझे आश्चर्य होता है कि जब इस सदन पर हमला हुआ, उसकी जांच भी हो गई और सुप्रीम कोर्ट ने फांसी की सजा भी सुना दी। सरकार की तरफ से अजहर मसूद की बात कही जाती है कि कंधार में उस आतंकवादी को क्यों छोड़ा गया। क्या आप अजहर मसूद की बात कह कर, जो संसद पर हमला हुआ, जो हमारे वाच एंड वार्ड के सिपाही मारे गए, क्या आप उन आतंकवादियों का समर्थन करना चाहते हैं। संसद में जो वाच एंड वार्ड के सिपाही मारे गए, क्या आप अजहर मसूद का नाम ले कर संसद पर हमले की घटना का समर्थन करना चाहते हैं। उस समय यदि सरकार की गलती थी, तो आप उस गलती को अब सुधार सकते हैं। यदि उस समय में सरकार ने गलती की, तो क्या आज आप उस गलती को दिखा कर अपनी गलती छिपाना चाहते हैं। मेरे मन में आशंका है कि अफजल की फाइल बहुत समय से केबिनेट के पास पड़ी हुई है। उसे क्यों बचाया जा रहा है? आप कानून की बात कह रहे हैं, लेकिन जिस व्यक्ति को कानून ने सजा दी है, उसे बचाने के लिए वह फाइल केबिनेट के पास क्यों पड़ी है? क्या इसका जवाब सरकार के पास है?

महोदय, यह हमला आतंकी हमला है। हमने उस दिन भी कहा था कि सरकार ने पहली बार इस बात को स्वीकार किया है कि यह हमला मुम्बई पर नहीं, बल्कि यह हमला हमारे देश पर किया गया है। हमने इस बात को स्वीकार करने के लिए सरकार को धन्यवाद भी दिया है। हमने यह मांग भी की थी कि यह केवल आतंकी हमला नहीं, बल्कि पाकिस्तान की ओर से हमारे विरुद्ध चलाया गया युद्ध है और युद्ध के तौर पर हमें इसका मुकाबला करना चाहिए।[r60]

17.00 hrs.

सभापति महोदय, मैं एक बात का जिक्र यहां इसलिए कर रहा हूं कि आज जो आतंकवादी कैद में जीवित हैं, उसे लेकर सदन के बाहर देश में अलग-अलग चर्चा शुरू हो गई है। आज कोई भी वकील उनकी वकालत करने के लिए तैयार नहीं है। ज्यादातर लोग कह रहे हैं कि ऐसा नहीं होना चाहिए, उनको वकील मुहैया कराना चाहिए और किसी न किसी को उसकी वकालत करनी चाहिए। आज देश का कोई भी वकील उनकी वकालत करने के लिए तैयार नहीं है। आज यह मुद्दा वकालत का नहीं है। जो 10 आतंकवादी मुम्बई में आए, वे पाकिस्तान से आए, वे पाकिस्तान से बोट में आए, चाहे वह गुजरात से चुराई हो, कुबेर नाव से देश में आए और आते समय हैंड ग्रेनेड, एके-47, आर्म्स एंड एम्युनिशयन लेकर आए। उन्होंने पाकिस्तान से आकर हमारे देश पर हमला किया है। वह केवल आतंकवादी ही नहीं हैं, बल्कि जो कैद में है, वह हमारा युद्ध कैदी भी है। इसलिए युद्ध कैदी की तरह उसके खिलाफ कार्रवाई होनी चाहिए। उन्होंने हमारे देश के खिलाफ युद्ध किया था। वे स्टेनगन, एके-47, हैंड ग्रेनेड लेकर आए थे।

सभापति महोदय : पार्टी का टाइम खत्म हो गया है।

श्री अनंत गंगाराम गीते : मैं एक बात और कहना चाहता हूं। टेलीविजन में एक बात आ रही है। सदन में हमारे मंत्री अंतुले जी बैठे हैं। आजकल उनका एक बयान टेलीविजन में दिखाया जा रहा है जिसे सुनकर आश्चर्य हुआ क्योंकि वह सरकार के एक मंत्री हैं। सदन में होम मिनिस्टर, प्रधान मंत्री और विदेश मंत्री जी ने जो बयान दिया है, उनके मुताबिक उस आतंकी हमले में एटीएस प्रमुख हेमन्त करकरे, अशोक कामटे, विजय सालेस्कर, उन्नीकृष्णनन् और 35 पुलिस तथा सुरक्षा कर्मी आतंकवादियों के हाथों मारे गए। यह बयान सदन में सरकार की ओर से दिया गया था और लिखित रूप में भी सदन में रखा गया है। आज दूरदर्शन पर दिखाया जा रहा है कि अंतुले जी जो मंत्री हैं, वह आरोप लगा कर कह रहे हैं कि जो हेमन्त करकरे के ऊपर गोली लगी और उनकी हत्या हुई, वह आतंकवादियों ने की है या और किसी ने की है, यह जांच करने की आवश्यकता है। यह किस वजह से ऐसी बात कर रहे हैं। ...(व्यवधान)

सभापति महोदयः आपने मंत्री जी का नाम लिया है, इसलिए उनकी बात सुनें।

अल्पसंख्यक मामले मंत्री (श्री ए. आर. अंतुले) : इनको मिर्ची क्यों लगी है, मुझे समझ नहीं आता और यह समझने की बात है।

सभापति महोदयः आप ठीक भाषा का प्रयोग करें।

श्री ए. आर. अंतुले दुनिया जानती है कि ताज, नरीमन हाउस और तीसरे ऑबराय में बहुत गोलीबारी चल रही थी। मैं मुम्बई का हूं। मेरे घर के पास ही ये सारी चीजें हुई जिसे गीते जी जानते हैं। मैंने उनको यह नहीं कहा कि आतंकवादियों ने नहीं मारा, वह क्यों मेरे मुंह में ऐसे अल्फाज डाल रहे हैं, मेरी समझ में नहीं आता।

श्री अनंत गंगाराम गीते : टेलीविजन में आपका बयान आया है और उसे लाइव दिखाया गया। आप दूरदर्शन से वह कैसेट मंगवा लीजिए। आप सदन को गुमराह नहीं कर सकते। आप टेलीविजन से उन्हें मंगवा लीजिए। ...(व्यवधान)

डॉ. शकील अहमद : यह लाइव बोल रहे हैं।

सभापति महोदयः आप इनको बोलने दीजिए।

श्री ए. आर. अंतुले दुनिया जानती है कि यह अंतुले डरपोक नहीं है। वह एक मर्तबा जो बोलता है, उसी बात को कायम रखता है, कभी नहीं पलटता है। मेरी जिन्दगी इसी में गई। मुझे पूरा हिन्दुस्तान, पूरा महाराष्ट्र खुसूसन जानता है। मैंने जो कहा है, मैं उसे बताता हूं। मैंने यह कहा और अभी भी वही कह रहा हूं।

मुझे बहुत अच्छा लगा, इसके लिए मैं शुक्रिया अदा करता हूं गीते जी का, क्योंकि गीते जी आपकी वजह से मुझे बोलने का मौका मिला, नहीं तो मुझे मौका नहीं मिलता।

श्री अनंत गंगाराम गीते : जो टीवी पर कहा है वह कहिए।...(व्यवधान)

श्री ए. आर. अंतुले: मैं बोल रहा हूं और आपका धन्यवाद देकर बोल रहा हूं। मैंने यह कहा कि बजाय इसके कि ताज में जाते, ओबराय में जाते, नारिमन हाऊस जाते तो यह जवां मर्द वहां जाता तो उसका नक्शा ही अलग होता। मेरा ईमान है, और मैं ऊपर वाले से डरकर कह रहा हूं, लेकिन उसे कहा गया होगा कामा अस्पताल की तरफ जाओ। मैं यह नहीं कह रहा कि कामा अस्पताल में कुछ नहीं हुआ होगा। कामा अस्पताल का नाम आतंकवाद के बारे में कितने लोगों ने सुना? अगर कामा में एक या दो इंसीडेंट शायद हुए होंगे तो यहां ताज वगैरह में कितने लोग मारे गए। दस लड़के आए और दस लड़कों ने तीन दिन तक हिन्दुस्तान में ये अंधाधुंध काम किया, यह हमारे लिए शर्म की बात है। ...(व्यवधान) उनके साथी एक ही गाड़ी में बैठे, जो प्रोटोकाल के खिलाफ है, उनको फौरन ऐसा कहा गया होगा, लेकिन किसने कहा ये मैं नहीं जानता और न मैं कह रहा हूं। जिनके दिल के अंदर चोर है, क्यों है यह मेरी समझ में नहीं आता।...(व्यवधान)

श्री अनंत गंगाराम गीते : महोदय, टीवी पर लाइव आ रहा है।...(व्यवधान) आपको सदन में माफी मांगनी पड़ेगी।...(व्यवधान) आप सदन में गलत बयान दे रहे हैं।...(व्यवधान)

सभापति महोदय : आप बैठिए। हमें डिबेट पर चर्चा करनी है।

â€¦(व्यवधान)

सभापति महोदय : उनको कहना है तो कहेंगे।

â€¦(व्यवधान)

श्री अनंत गंगाराम गीते : महोदय, अभी भी टीवी पर लाइव आ रहा है।...(व्यवधान)

सभापति महोदय : आप बैठिए। ऐसे नहीं होगा।

â€¦(व्यवधान)

श्री ए. आर. अंतुले: मैंने वही कहा है जो उस वक्त मैंने कहा और मैं गलत नहीं कहता हूं।...(व्यवधान)

सभापति महोदय : आठवले जी, आप बैठिए।

â€¦(व्यवधान)

सभापति महोदय : आपको कुछ कहना है तो आप अपनी सीट पर जाकर कहिए।

â€¦(व्यवधान)

श्री ए. आर. अंतुले: मैं हल्फिया कह रहा हूं। मैंने यह कहा कि उनको अलग तरीके से अलग डायरेक्शन में भेजने वाला कौन था, जिसकी वजह से वो जवां मर्द, जिनके ऊपर हमें फL◌ा है और हमेशा फL◌ा रहेगा, उनको मारा गया। ...(व्यवधान)

सभापति महोदय : यह इन्वेस्टिगेशन का विषय है।

â€¦(व्यवधान)

श्री ए. आर. अंतुले: मेरी आंख के सामने गीते जी नहीं थे, हमारे दोस्त नहीं थे। मैंने कहा जांच की जाए, इसमें क्या गलत कहा है? मैं अभी भी कहता हूं जांच होनी चाहिए।...(व्यवधान)

सभापति महोदय : सत्पथी जी, आप बोलिए।

â€¦(व्यवधान)

श्री अनंत गंगाराम गीते : महोदय, ये बीच में बोल रहे हैं। मैं अपनी बात खत्म कर रहा हूं। मुझे अंतुले जी से यह उम्मीद नहीं थी कि अंतुले साहब इस सदन को गुमराह करेंगे। टीवी पर बयान अभी भी आ रहा है।...(व्यवधान)

सभापति महोदय : उसकी चर्चा यहां मत कीजिए।

â€¦(व्यवधान)

श्री अनंत गंगाराम गीते : जो बयान आ रहा है, वह अभी भी लाइव है। अंतुले जी बोल रहे हैं, कैप्स ऑन नहीं आ रहा है। अंतुले जी बोल रहे हैं और वही टीवी पर अभी भी दिखाया जा रहा है।...(व्यवधान)

सभापति महोदय : गीते जी, हमने मिलकर चर्चा करनी है।

â€¦(व्यवधान)

श्री अनंत गंगाराम गीते : सभापति महोदय, मैं इस बात का जिक्र इसलिए करना चाहता हूं क्योंकि इस सदन में यह प्रयास पहले दिन से रहा है कि पूरे देश में सांप्रदायिकता बनी रहे, वह न टूटे।...(व्यवधान) इसलिए पूरे सदन में इस बात का हमने एक जुबान और एक दिल से समर्थन किया है ,िंनदा की है और आज इस सदन में इस कानून का समर्थन देने के लिए यहां खड़े हैं। इस समय इस बात को, सांप्रदायिक एकता को तोड़ने वाली बात जो अंतुले जी के मुंह से आती है, यह बहुत शर्मनाक बात है।[r61]

सभापति महोदय, यह सरकार है और सरकार को इस प्रकार से बयान नहीं देना चाहिए। जो सदन में कहता है, वही सही है। इसलिए इसके बारे में ...(व्यवधान)

सभापति महोदय : आप बैठिये, आपकी गरिमा है, उसे बीच में बोलकर उसे खराब मत करिये।

श्री अनंत गंगाराम गीते : होम मिनिस्टर को इसके बारे में क्लेरिफिकेशन देना चाहिए, जो सदन में उन्होंने बयान दिया है, वह सदन के सामने दिया है और अंतुले साहब का बयान टी.वी. पर आ रहा है और यहां पर वह अपनी बात से मुकर रहे हैं। इस तरह से यह सदन को फिर से गुमराह कर रहे हैं।

सभापति महोदय, एन.डी.ए. की ओर से आडवाणी जी ने यह विश्वास दिलाया है कि इस कानून को बनाने में हमारा सहयोग रहेगा और हम भी यही कहते हैं कि इस कानून को बनाने में हम सहयोग करेंगे, सरकार के साथ रहेंगे, आतंकवाद से निपटने के लिए सरकार जो भी कदम उठायेगी, हम उनका समर्थन करेंगे।

â€¦(व्यवधान)

सभापति महोदय : रामदास जी, आप बैठिये। रिकार्ड पर कुछ भी नहीं जायेगा, जिसे कहा गया है उसी का स्टेटमैन्ट जाना चाहिए।

â€¦(व्यवधान)

सभापति महोदय : आप बीच में क्यों बोल रहे हैं? रामदास जी, आपको कहा है, आप बैठ जाइये।

â€¦(व्यवधान)

सभापति महोदय : कोई सपोर्ट करने की जरूरत नहीं है।

â€¦(व्यवधान)

सभापति महोदय : माननीय सदस्यों से मेरी प्रार्थना है कि कृपया कोई भी सदस्य बैठे-बैठे चर्चा न करे। आप बैठिये।

â€¦(व्यवधान)

सभापति महोदय : आपस में बातें नहीं करनी हैं।

â€¦(व्यवधान)

सभापति महोदय : आपस में बात करने का कौन सा दस्तूर है, आप चेयर से पूछिये, आपको बोलने का मौका मिलेगा।

SHRI TATHAGATA SATPATHY (DHENKANAL): Mr. Chairman, Sir, the behaviour of the Members of this House while discussing such an important Bill is definitely sad and the people of this country are frustrated with the unruly character that we portray here in this House. I regret that this is the image that we are sending out to the people. But everybody is an elected Member here and I have the highest regards for all of them.

Sir, while discussing the National Investigation Agency Bill, 2008 and the Unlawful Activities (Prevention) Amendment Bill, 2008, the Central Government has to take note of the dire situation that is prevailing in this country. I welcome both these Bills. Like the hon. Leader of the Opposition Shri Advani said earlier today, across the board, I think, everybody in this House welcomes both these Bills.

But while welcoming these Bills, we also have many misapprehensions and apprehensions. There is a longstanding issue of State autonomy and at a very cursory glance, if we see the National Investigation Agency Bill, in our desperate effort to ape the United States of America, we are probably forgetting that we all belong to a nation called India, that is, Bharat and that we have certain shortcomings that we should take into account while we deal with the legalities in this nation.

Sir, in Chapter-III, Clause 6, paragraph 5 of the Bill says:

> "Notwithstanding anything contained in this Section, if the Central Government is of the opinion that a scheduled offence has been committed which is required to be investigated under this Act, it may, *suo motu*, direct the agency to investigate the said offence."

Later on, in Clause 7(A), it is said:

> "While investigating any offence under this Act, the agency, having regard to the gravity of the offence and other relevant factors may, if it is expedient to do so, request the State Government to associate itself with the investigation."

Sir, the Home Minister had particularly mentioned about this provision earlier, but he did not point out that the words ' *suo motu*' were used here and nor did he point out that if the agency or the Central Government find it expedient to do so.[R62] That means, it is at the sweet will of the agency or whoever may be in power at the Centre at a particular time to decide whether to involve any or all State Governments in investigations which come under this Schedule.

Sir, we, at the outset, have to accept that terrorism is not something special to India and it is also not limited to any geographical boundaries within India or outside India. Terror, today, is something that is enveloping the whole globe and all of us should have awakened to these realities long before. But like it is said on the Highways of India, 'it is better late than never', so we welcome these two Bills. Although they are late, they are to be supported.

As of now, in my knowledge, there are about three intelligence agencies in this country. There is the Intelligence Bureau, there is the Research and Analysis Wing and there is also a Military Intelligence Wing. Apart from these, we have the State Governments having their own State intelligence bureaus. Unfortunately, with, at least, four different known layers -- I do not know if the Government has any other unknown layer -- of intelligence gathering there is absolutely no advance information of any incident that is happening in this country today, whether it be a blast in a train where common poor people are killed or whether these are murders that took place in a big luxurious 5-Star hotels. We never had any previous information. But after the incident, always the intelligence agencies and some wings of the Government come up and say that prior information was available. But they were not properly utilised.

In Oriya, there is a saying मार, मार, भंडारिया को मार। That means, when you have to hit somebody, hit your barber because the barber is a poor fellow, he is cutting your hair, he does not know Adam or Eve. So, if you are angry, hit him. Similarly, here the Bhandariya became the former Home Minister, Mr. Shivraj Patil. I may not be a great admirer of Mr. Patil, but I definitely feel sorrow for this Patil and the other Mr. R.R. Patil of Maharashtra. Are they really to blame for these incidents? Are we supposed to take their scalp just because we could not act? Is it time we woke up and faced the reality that the system that the bureaucratic set up in this country is completely non-functional, it does not perform its duties?

Can a Home Minister, sitting in Delhi, possibly find out every single intelligence input that comes into the knowledge of the officers? He cannot. But here we go, we took his scalp. The Party bosses thought it fit and the people also came up with placards which said 'enough is enough.' Is it not time that we also educate our people that there is no enough of terrorism. Terrorism has no end. It is not limited to any religion. It is not limited to any country. It is a global phenomenon and while I am saying this, I must take note of the fact that the dead terrorists were not allowed to be buried in any of the Muslim burial grounds of Mumbai because the community there detested those people and oppose their burials as a mark of hatred towards the terrorists. So, we have to commend that in the burial grounds they did not want their near and dear ones to be sharing the grounds with these criminals, with these low down people.

So, it is not a question of any religion. It is not Hindus who are terrorists and it is not Muslims who are terrorists. Terrorists are a religion by themselves.

But, here we have all these multifarious police and intelligence wings which do not share or coordinate information. Therefore we are always at a loss as to what we are supposed to do. When I see these two Acts, I find these are basically the Acts that are seeking *post mortem* reports. Once a person is dead, once a terrorist activity is completed, over and done with, when something like the NSG takes more than nine hours to reach Bombay from Delhi, all these failures get covered up with your special court and your special laws. I would expect the Minister *sahib* to please pay attention; with all these things, we are only seeking a *post mortem* report. For how long, shall we have this *post mortem* being done to us?

Since Lal Bahadur Shastri set the trend when the train accident occurred and he resigned, that hatred towards politicians and taking the scalp of politicians has commenced. But we are at no point of time taking into account the failure of the bureaucrats.

It is time that we also make the people of this country aware that they have a certain role to play. It is not enough for people to go out to the streets and say that let there be war against Pakistan. Those are people who need to be made conscious that in the 21st century world, in a war by a country like India against any other country, leave alone Pakistan which is a very determined State, even a small country like Maldives or Sri Lanka, there cannot be a conclusive victory for India. Therefore, it is pointless to say that we should go to war. What we should be thinking about is what we are doing to stop recurrence of such incidents. Are we coordinating the intelligence network? Are we coordinating the Armed Forces? Are we able to coordinate the special police forces? Lastly, are we able to make the people conscious?

Here, it may be very proper to mention that a small State like Israel which is cordoned on one side, on the northern side, by the Mediterranean but on all the other three sides by extremely inimical States has managed not only to survive but to thwart most terror activities and has beaten its enemies black and blue. That has been possible because the Government is responsive. It is not responsive just by passing laws and Bills in Parliament and making a mockery of themselves by shouting at each other, not understanding the seriousness of the issue, but by coordinating Government action, police and military action with the common citizens. It is therefore my humble prayer and request to the Government that while they pass this Bill, they have to take into account that there will be mischievous people in power now or later. And to destroy the autonomy of the State, by having such an agency which can operate on its own, and which may, if it so thinks expedient, request the State Government to participate in the investigation, we are endangering the very fibre of our democratic setup. When we have to protect democracy, we also have to think that democracy means nothing if the people of this country are endangered. So, protecting the people being our first concern, we have to think that with the existing Armed Forces, with the existing intelligence what we already have at our resources, how best we can make sure that instead of a *post mortem* Bill we bring this nation to a level of utter preparedness where we can face terrorism and all kinds of terror activities at the very outset and not wait till the time comes when we have to decide whether this lone terrorist will be hung in a public square in Bombay or whether we will have special courts. It is time that all of us join hands. We all support the Government in this activity. But I hope the Home Minister and the Government will wake up to realities, take care of the autonomy of the States and also protect the lives and properties of the citizens of India.

SHRI GURUDAS DASGUPTA (PANSKURA): Mr. Chairman, Sir, we are discussing two most important Bills, as the hon. Home Minister has said while moving these Bills for a discussion.

Let me at the outset very clearly say that the country is one and all together in the fight against terrorism. Secondly, we have not rejected the idea of having a Central Investigating Agency. We have not rejected it. Thirdly, we have not disapproved the idea of strengthening the legal superstructure to take care of terrorism and to bring to book the terrorists, more so the abettors because the terrorists form a suicide squad.

While saying so, I must say that the laws, however stringent they are, they are not in any way deterrent to terrorism only. However stringent the laws may be, they are not deterrent. Law must not be draconian. I am choosing my words carefully. The laws must not be draconian. The laws must be consistent with the democratic fundamentals of the country. The two important ingredients in our uncompromising battle against terrorism are (a) democracy and (b) people. Without democracy, without the support of the people, and without the unity of the nation, however laudable might be the speech of our Ministers, we cannot face terrorism.

Sir, the point is this. Why has the House of Lords refused to extend the retention period beyond 28 days? Is it that the House of Lords soft on terrorism? Why has America refused to extend the period of detention? Are we to believe that America does not want to fight terrorism? The basic point is that democracy must not be impaired upon while fighting terrorism. Let me give two examples. You have 180 days' retention without charge-sheet. Is it conducive to democratic principles? Is it in lines with the ethos of democracy that India stands for?

Secondly, the onus is with the accused to prove his innocence. The charge has to be established by the prosecution. Here, it is just a reverse. Innocence has to be proved by the accused. Yes, it is there in some cases. Let me read. Is it, Sir, in tune with the high ideals of democracy and secularism that India stands for?

Sir, the point is this. We think that these two provisions of the Act are anti-democratic and unheard of. This is absolutely unacceptable to us. BJP has demanded POTA. Shri Chidambaram was listening to him carefully. He was demanding POTA. Shri Chidambaram has gone half the way. It is half the way POTA. BJP should be complimented for dragging the Government to its

own line of action and thinking. BJP has dragged them really. If there has been no 'U' turn, at least BJP has been able to drag the Congress Party to near to their position. It is half the way POTA. It has been done to silence BJP because election is near. You do not like to face the people with the canard that you are soft on terrorism as if by having a stringent law you can convince the people of your intention of fighting terrorism. There is no other way. It is the solitary, single superlative action that the Government has taken.

Mr. Kapil Sibal has been very candid. He had said: "We could have gone more further; harder could have been done. We have not gone to that extent." Thank you, Mr. Kapil Sibalji. What more you could have done? You could have said 'punishment without trial, without evidence.' At least, that hard step would have taken. You have not taken that step. Thank you for that. Thank you for being a little more democratic than they are.

Sir, the point is, making the State a police State is too dangerous. Too much of power to people is prone to abuse seriously. It is Mr. Chidambarm, who will apply the law; it is not Mr. Kapil Sibal, who will have the will in his hand. In the Administration down below, there is a bias. There is a bias in the country. While having the bias, it is not unlikely that the superlative power that you are giving to them is prone to misuse. If one single soul is victim of unreasonable behaviour of the State, that constitutes the shame for the country.

Sir, too much of power to the police means autocracy and not democracy. Pakistan is an autocratic State. It is a totalitarian State; it is a police State; it is a military State. Has Pakistan been able to tackle terrorism in their own country? Let us not go too far. Look at Pakistan. Look at Bangladesh. Military is repeatedly taking over. Has the Military Rule been able to take care of the *Jehadis,* who are firing guns on their own people? Therefore, it is experience. Let us not impair upon democracy while fighting terrorism. That is the lesson of history and that lesson cannot be forgotten by going half the way in the direction, the BJP wants him to drag.

I am amazed. Sir, I am amazed on the argument of Mr. Advani. What was he speaking of? He was speaking of evidence before a policeman to be taken into consideration. I was really trying to find out whether I was listening to an Indian or somebody else. Confession in front of a policeman to be taken as an evidence in a criminal case! I am unperplexed . Is it the voice of the Prime Minister in waiting? Is it the voice of the Leader of the Opposition of the House of People in India? Even Mr. Advani has said that the messages that can be intercepted should be taken as a basis of evidence. How far would you like to go? Which direction would you like to take the country to? Not only democracy will be safe in their hands, the future of the country will be unsafe in their hands if the leader says that the confession before a policeman is to be taken for granted. Even in Hitler's Germany, if it was like that, I do not know. I do not know whether under fascism, it was like that. I do not call anybody Hitlerite. But I am only saying that it is too dangerous. It is too dangerous to be speaking like this most shamefully in the House openly in defence of draconian measures. It is a shame.

Sir, only law is not sufficient. Our preparedness is important. Our preparedness means unity of the people, galvanising the will of the people. Our preparedness means preparedness of the State.[r63]

Our preparedness means coordination between different agencies of Intelligence. Our preparedness means that the security forces will act on the information that the Intelligence will supply. Our preparedness means a better functioning of the Home Ministry that we have been seeing. I compliment Shri P. Chidambaram that he has agreed to go to Orissa before 25th of December, on the day of Christmas when a strike has been called by the chauvinistic forces. This is the India that we are living in. Terrorism does not lie only in the attack on the common people. Terrorism lies in the attack of chauvinism. Terrorism lies in the attack of communalism. Terrorism lies in the attack of the divisive forces. Terrorism has a multi-dimensional face in our country. It is to be fought.

Therefore, the Home Ministry has to be a little more active than what it had been. There has to be a probe. We must know. Is it true that three messages were intercepted? Is it true that the Chief of the Naval Defence had said that it is a systemic failure? Is it true that Mr. Antony had said that our sea border is unsafe? Is it true? If it is true, who is to be blamed? You can hang the terrorists. You can put a person in detention for six months. But, whose lapse is responsible for the dastardly crime that had taken place in Mumbai? Whose lapse or whose short-sightedness is responsible? We must find it out. It is not enough to know that the Government is after a very stringent Act. The Government must come clean. We must know what is there. If it is not, I will feel that this is a mock trial in the House. The sincerity of the Government will be proven if the Government comes clean on the question that it was unprepared, on the question that not enough was done, on the question that Intelligence reports were not acted upon.

It is not only law, but if terrorism is multinational, the counter-terrorist strategy has also to be multinational. We cannot feel safe if only this Bill is passed. Is it all safe if 180 days' custody is granted? Is it all safe if a Central Investigative Agency comes up? No, it is not. What are the other steps? Have you taken them?

Therefore, with a heavy heart, while associating myself with the move of the Government to have hard laws, I must frankly submit that we oppose 180 days' detention without charge sheet, we oppose that the accused has to prove his innocence. Finally, I believe that it is only the people, the unity of the people, it is the political sense of the people that can be there. After all, it is Mother India which can protect India, not some laws that the Government is bringing. Thank you.

SHRI A. KRISHNASWAMY (SRIPERUMBUDUR): Thank you, Sir. On behalf of DMK Party, I support the consideration and passing of the two Bills, namely the National Investigative Agency Bill and the Unlawful Activities (Prevention) Amendment Bill, being brought by the UPA Government. About the incident that happened in Mumbai, the entire country was very much worried and the entire people of India were agitated and they were angry. They were exclusively angry towards the politicians. The public think that the entire responsibility goes to the politicians and they have given statements on television that damaged the politicians. They scolded the politicians. They gathered against the politicians.

Sir, it is the need of the hour to bring this law to prevent our country from the attack of terrorists. I appreciate the background when these two Bills have been brought forward by the hon. Minister to fight against the terrorists and to effectively deal with such menace. [k64]

Sir, this is the first Bill to constitute a national-level investigation agency for the offences related to terrorism. We are all aware that CBI cannot take over the investigation *suo motu* in relation to a law and order situation but with the consent of the State Government. Clause 6(5) of the Bill provides for *suo motu* take over of investigation of the offences enumerated in the Schedule. This would, of course, avoid all complications in taking over investigation, even without the consent of the State Government.

Sir, I respectfully submit that we have certain reservations in taking over investigation in respect of overall offences covered under the Unlawful Activities Act. We have no objection to the Central agency taking over any offence relating to actual terrorist activities committed. The wording of clause 9 is vague. It is not clear. It says : "The State Government shall extend all assistance and cooperation to the Agency for investigation of the scheduled offences." The words 'assistance and cooperation' seem to be vague. It should be interpreted properly and it should alleviate the practical difficulties currently faced by the Central agencies like CBI. There should not be any clash, altercation or deadlock between the Central agency and the State Government agencies since it involves swift action. Practically, as an advocate, I come to know that in many cases, the CBI does not get assistance of the State Governments for several reasons. So, delay in cooperation should not be there. In this, it should be very clear.

The minimum punishment provided in section 18 of the principal Act of Unlawful Activities is five years for the person who conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of a terrorist act. The punishment now given is five years. It should be raised to a minimum of ten years because it is a very serious offence. Not only in Section 18, but also in Section 18B, it should be enhanced to ten years.

Today the Leader of the Opposition, Shri L.K. Advani, said that this is old wine in a new bottle. I am sorry and I disagree with him. I say that this is fresh wine which is added to the old bottle because this is a new law. You cannot compare it with POTA. Sir, you know very well that POTA was misused in many corners of this country, particularly in Tamil Nadu. It was misused by the then State Government of Tamil Nadu for their political ends. Even a confession given by an accused to the police officer under duress was taken as admissible evidence, with which many innocent persons, especially people belonging to minority community were targeted. After the UPA Government came to power, it repealed the POTA. But seeing the serious terrorist attacks being made by extremist and terrorist elements from the neighbouring country, the Government has come forward to bring a Bill to deal with such a menace effectively. At the same time, they have taken care to see that the views of human rights' activists and jurists are also taken into account so that it is a balanced one.

I support the Government on this Bill as we are sure that such misuses will not happen through this Bill. On behalf of the DMK party, I wholeheartedly support this Bill.

श्री सुखदेव सिंह ढींडसा (संगरूर) : सभापति जी, मैं आपका बहुत आभारी हूं कि आपने मुझे बोलने का अवसर प्रदान किया। आज सदन में नैशनल इन्वैस्टीगेशन एजेंसी बिल, 2008 एवं अनलॉफुल एक्टीविटीज (प्रिवेंशन) अमेंडमेंट बिल, 2008 पर चर्चा हो रही है। सरकार जो नैशनल इन्वैस्टीगेशन एजेंसी बना रही है, उस पर मेरी और मेरी पार्टी की रिजर्वेशन्स हैं। [r65]

मैं इसीलिए कह रहा हूं कि पहले भी बहुत सी एजेंसीज़ हैं, गवर्नमेंट ऑफ इंडिया की एजेंसीज़ हैं, जिनमें आई.बी. है, सी.बी.आई. है, रॉ है, मिलिट्री इंटेलीजेंस है, स्टेट्स में कुछ टास्क फोर्स हैं, कोई एंटी टैरिरिस्ट स्कैड्स हैं - एजेंसी तो बहुत हैं, लेकिन यह बिल इसलिए जल्दी लाया गया, क्योंकि जो बहुत दुखदायी घटना मुम्बई में हुई, उसके बाद सारे हिन्दुस्तान में एक जुबान होकर बोलें, इसलिए सरकार ने सोचा कि कोई ऐसा बिल लायें, तो यह बिल भी उन बिलों के क्रम में लाया गया है।

मैं सरकार से यह पूछना चाहता हूं कि ठीक है, आपने होम मिनिस्टर का इस्तीफा ले लिया, चीफ मिनिस्टर का इस्तीफा ले लिया, लेकिन उन एजेंसियों का क्या हुआ, जिन एजेंसियों ने रिपोर्ट में कहा, जो अलग-अलग बोल रही हैं? कोई कहता है कि हमने पहले इन्फोर्मेशन दी थी, कोई कहता है कि हमें पहले कोई इन्फोर्मेसन नहीं मिली। क्या किसी एजेंसी पर कोई एक्शन किया, किसी आफिसर को आपने जवाबदेह बनाया?

इसके अलावा भी मैं कहना चाहता हूं कि जो गुरुदास दासगुप्त जी ने कहा कि हम टैरेरिज्म के बहुत खिलाफ हैं, क्योंकि जितना टैरेरिज़्म का दुख पंजाब में हमने झेला है, उतना किसी ने नहीं झेला, इसलिए हम उसके खिलाफ हैं। लेकिन इसका मकसद यह है कि आप किसी एजेंसी को, पुलिस को इतनी पावर दे दें, वह भी हमने नौ साल में पंजाब में देखा कि कितने बेगुनाहों को पुलिस ने कत्ल किया, कितने बेगुनाहों को जेलों में भेजा। वह सब भी हमने देखा है, हमारे ऊपर आया है। मैं होम मिनिस्टर साहब से दरख्वास्त करता हूं कि आप इतनी पावर किसी एजेंसी को मद दो, जिससे यह हो कि बेगुनाहों को, जैसा गुरुदास दासगुप्त जी ने कहा, वे करें। ऐसा नहीं होना चाहिए, मेरी पार्टी इसीलिए इसके खिलाफ है।

दूसरे, क्या मैं सरकार से पूछ सकता हूं कि आप एजेंसी तो बना रहे हैं, लेकिन क्या एजेंसीज़ में कोआर्डीनेशन है? स्टेट में और सैण्टर में कितना कोआर्डीनेशन रहा, मुम्बई में जो हुआ, उसमें स्टेट और सैण्टर में कितना कोआर्डीनेशन रहा और सैण्ट्रल फोर्सेज़ और स्टेट फोर्सेज़ में कितना कोआर्डीनेशन था, इसको तो देखें कि उनके बीच में कोआर्डीनेशन बनाने की जरूरत है। यह नहीं है कि बिल पर बिल, एक्ट पर एक्ट बनाये जाओ, लेकिन कोआर्डीनेशन किसी का न हो। मुझे यह भी शंका है, जैसा आज बहस में हमने देखा है कि यहां पर कहते तो हम यही हैं कि सारा हाउस इसके खिलाफ है, लेकिन आज जो स्पीचेज़ आपने सुनी हैं तो क्या आप देख सकते हैं कि यह एजेंसी वही काम कर सकेगी, जो हिन्दुस्तान चाहता है? क्या यह पोलिटिकल लीडरशिप एक दूसरे के खिलाफ उसे नहीं बरतेगी? यह आज हम सब ने देख लिया, इसीलिए मैं और मेरी पार्टी इसके खिलाफ हैं। अगर यह एजेंसी बनानी भी थी तो स्टेट के सभी चीफ मिनिस्टर्स को बुलाते, उनके साथ कंसेंसस बनाते, लेकिन वह नहीं बनाई, क्योंकि इफैक्टिड तो इससे स्टेट्स होंगी। मैं समझता हूं कि कांग्रेस और बी.जे.पी. को छोड़कर, यह चाहे यू.पी.ए. में हैं, चाहे एन.डी.ए. में हैं, इसके खिलाफ हैं। जो रीजनल पार्टीज़ हैं, हम तो यह चाहते थे, वे तो कहती हैं कि फैडरल सिस्टम होना चाहिए। हिन्दुस्तान का फैडरल सिस्टम रियल सेंस में होना चाहिए। स्टेट्स को पावर्स मिलनी चाहिए, स्टेट्स के काम में दखल नहीं होना चाहिए। हमारा आनन्दपुर साहिब का रैजोल्यूशन यही कहता था...(व्यवधान)

सभापति महोदय : आप डिस्टर्ब मत करिये। आप बोलते जाइये।

श्री सुखदेव सिंह ढींडसा : हम उस पर खड़े हैं, क्योंकि रैजोल्यूशन में क्लियर है।...(व्यवधान)

सभापति महोदय : कृपया बिना इजाजत बात न करें।

श्री सुखदेव सिंह ढींडसा : रैजोल्यूशन में यह है कि चार सबजैक्ट्स हैं, उन चार सबजैक्ट्स को छेड़कर सभी स्टेट्स को मिलना चाहिए, यह आनन्दपुर साहिब रैजोल्यूशन कहता है। मैं यह कहता हूं कि हमारा इसलिए रैजोल्यूशन है कि इसका भी मिसयूज़ किया जा सकता है। इस पर कंसेंसस बननी चाहिए थी।...(व्यवधान)

सभापति महोदय : बिना इजाजत कोई बात रिकार्ड पर नहीं जाएगी।

श्री सुखदेव सिंह ढींडसा : यह बननी चाहिए थी। आप यह क्यों नहीं करते? सैंटर पावर तो ले रहा है, लेकिन आप स्टेट्स फोर्सेज़ को मजबूत करने के लिए सैण्टर से मदद क्यों नहीं करते?[R66] उनकी मदद होनी चाहिए, उनको पावर देनी चाहिए, उनको पैसा देना चाहिए, ताकि टेररिज्म के खिलाफ स्टेट्स भी लड़ सकें। फोर्सेज को नयी टेक्नॉलाजी मिलनी चाहिए, नये साधन उनको देने चाहिए। आखिर इसे करना ही था और अगर आप स्टेट चीफ मिनिस्टर्स को भी नहीं बुलाना चाहते, तो इसे स्टैंडिंग कमेटी को देते, तो इस पर पूरा विचार तो होता कि क्या होना है? इसके बाद स्टैंडिंग कमेटी को यह जाता।

सिब्बल जी गोधरा की बात कह रहे थे। जब वर्ष 1984 के राइट्स हुए, तब तीन-चार हजार सिख मार दिए गए। उसके बाद बोलते हुए मैंने कहा था कि वहां पर किसी को सजा आज तक नहीं मिली। अगर वहां उस वक्त सजा मिल जाती, तो कभी गोधरा न होता या और कहीं कुछ न होता, लेकिन किसी ने ऐसा नहीं सोचा। सरकार के देखते हुए गोधरा हुआ और भी आगे होंगे, क्योंकि लोग समझेंगे कि यहां तो कोई पूछता ही नहीं है, किसी को सजा ही नहीं मिलती। ऐसा होता ही रहेगा। ...(व्यवधान)

महोदय, यादव जी कह रहे थे, वह मेरे दोस्त हैं, ठीक है, उस वक्त लोगों में काफी गुस्सा था, वह कह रहे थे कि अटैक पाकिस्तान, लेकिन मैं इसके हक में नहीं हूं। पाकिस्तान में मुश्किल से डेमोक्रेसी आयी है। उनकी मजबूरी भी है। उनके ऊपर आईएसआई और फोर्सेज का पूरा दबाव है। वे कभी कुछ बोल जाते हैं, तो कभी कुछ बोल जाते हैं। उनको खतरा है कि अगर कोई ऐसी बात हो गयी, तो फिर मिलिट्री का राज हो जाएगा। मैं इसके खिलाफ हूं, क्योंकि मुश्किल से आहिस्ता-आहिस्ता पाकिस्तान और हिंदुस्तान के लोगों में, जैसा यादव जी कह रहे थे, मैं उनके साथ हूं कि इंट्रैक्शन होनी शुरू हुयी है। अगर फिर से लड़ाई हो गई तो दस-बारह सालों से आहिस्ता-आहिस्ता पाकिस्तान के साथ हमारी जो बात चल रही है, वह फिर खत्म हो जाएगी। उसको पॉलिटिकल लेवेल पर, डिप्लोमेटिक लेवेल पर, इंटरनेशनल प्रैशर और दूसरे प्रैशर डालकर समस्या को हल करना चाहिए। अटैक से या जंग से उसका कोई हल नहीं हो सकता है। सबसे ज्यादा टेररिज्म का दुख हमने झेला है, हम उसके हक में हैं। हम कहते हैं कि टेररिज्म सारी दुनिया से खत्म हो। मेरी पार्टी इसके पक्ष में है, लेकिन इस कानून के संबंध में जो मेरी बातें हैं, उसे होम मिनिस्टर साहब थोड़ा ध्यान रखें कि इतनी पावर देकर, कहीं बेगुनाहों को कोई अंदर रखे, कोई गोली मार दे, ऐसा नहीं होना चाहिए। हमने बहुत कुछ देखा है।

SHRI KHARABELA SWAIN : Sir, like the hon. Leader of the Opposition, I support both the Bills. The first one is the National Investigation Agency Bill, 2008, and the second one is the Unlawful Activities (Prevention) Amendment Bill, 2008. During the course of the debate, most of the hon. Members from the Ruling Party made a point, very ably led by one of the most eminent lawyers of this country, Mr. Kapil Sibal. I am happy that he is here to listen to my replies to what he has said.

SHRI B. MAHTAB (CUTTACK): You had requested him to be present.[r67]

SHRI KHARABELA SWAIN : Generally he does not do that. But after making the speech he always vanishes. So, I am happy that he is present today.

THE MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF EARTH SCIENCES (SHRI KAPIL SIBAL): Sir, I object to

that. If you look at the records of this House, I never left this House after I have spoken in this House.

This is for your information, Sir, I have seen you walk away many times.

सभापति महोदय : परस्पर आरोप-प्रत्यारोप की आवश्यकता नहीं है।

â€¦(व्यवधान)

SHRI KHARABELA SWAIN : The entire House knows as to who stays and who goes. So, I need not elaborate upon it.

He said, and he was ably supported by Devendraji and others, that everybody should be united in the fight against the scourge of terrorism. What do they mean by that? Do they mean that in order to show our solidarity we will simply go by whatever the Ruling Party says and we will not oppose this Bill? Is this the meaning of unity and integrity? In that case, what is the Opposition here for? If we do not point out the lacunae that are present in the Bill, what are we here for? So, when we say that we support the Bill we also say that if the people of this country bring us to power after some time, we will replace the lacunae contained in this Bill. But, for the time being, we support this Bill.

Hon. Kapil Sibal made a very pertinent point at the fag end of his speech. It was repeated by Devendra Prasadji. They said that terrorism will not end with the passage of these Bills; it requires will power. Very good! Will power! The UPA Government has been in power for the last four and a half years. There have been terrorist attacks on this country twenty five times in that period. I put some simple questions to the Government. How many terrorists have been apprehended by now? How many of them have been prosecuted? How many of them have been tried in the court of law and how many of them have been convicted? If there is will on the part of the Government, in these last four and a half years how many terrorists have been caught?

Now, all of a sudden, the Government says that they have brought in this Bill because they have got the political will. Why has this Bill come all of a sudden just three-four months before election? That is because firstly the election is very near, and secondly because the entire nation is bubbling in impotent anger. I deliberately use these words 'impotent anger'. Their anger is impotent because they find that the Government has failed to protect them; the Government has failed to protect their lives; the Government has failed to provide them safety. This is the basic reason which has hit them. Because election is round the corner, the Government has all of a sudden brought this Bill.

Mr. M.K. Narayanan is the National Security Advisor. How many times has he said that this country needs a special law to counter terrorism? Will they answer that question? They have summoned all the Directors-General of Police several times. The DGs have demanded that there should be a special law to fight terror. It had fallen on the deaf ears of this Government.

Now, they referred to Mr. Veerappa Moily, Chairman of the Administrative Reforms Commission.[KMR68]

18.00 hrs

What has he mentioned? He has said in the Report that the anti-terror laws in this country have become toothless. Because they are toothless, terrorists are finding many loopholes and they are getting away. This is what the Administrative Reforms Commission have recommended. The DG, Police, the National Security Advisor, the Administrative Reforms Tribunal – all of them which belong to this Government - have recommended, not one month or two months before, since years. And they did not listen to it. Now, Shri Kapil Sibal says that they are learning with experience. Even they say and the people say ideologies – you go through his records.

सभापति महोदय : सवाई जी, छः बज रहे हैं। अगर सदन की अनुमति हो, तो इस चर्चा के लिए दो घंटे का समय और बढ़ा दिया जाये।

श्री संतोष गंगवार (बरेली): ठीक है, आप समय बढ़ा दीजिए।

सभापति महोदय : इस चर्चा के लिए छः घंटे का समय तय किया गया है । अब इसमें हम दो घंटे और बढ़ा रहे हैं यानी आठ बजे तक यह चर्चा चलेगी। क्या हाउस की इसके लिए सहमति है?

श्री कपिल सिब्बल : सभापति महोदय, साढ़े सात बजे तक गृह मंत्री जी को जवाब देने की अनुमति दी जाये।

सभापति महोदय : यह ठीक बात है, लेकिन मैं आठ बजे तक चर्चा करने के लिए सदन से अनुमति चाहता हूं। क्या दो घंटे बढ़ाने की अनुमति है?

कई माननीय सदस्य : ठीक है, आप समय बढ़ा दीजिए।

श्री राम कृपाल यादव (पटना) : सभापति महोदय, जब तक बिल पर चर्चा खत्म न हो तब तक आप हाउस का समय बढ़ा दीजिए, क्योंकि यह बहुत महत्वपूर्ण बिल है।

सभापति महोदय : इस बिल पर चर्चा जारी रखी जाये क्योंकि सदन से समय बढ़ाने के लिए अनुमति मिल गयी है।

SHRI KHARABELA SWAIN : During the course of his debate, Shri Sibal, along with Shri Devendra Prasad, and Lalu ji was also sitting there in front of him, many times they repeated. Not only today, they have also been repeating it several times that the NDA Government had let off the terrorists at Kandhahar. Yes, we did it. Several times, I have asked Shri Sibal, that by telling these things do you mean to say that we had committed a mistake and we should not have let them off. We should have retained them in the Indian jails; we should not have allowed them to go in exchange of the people who were hijacked. Then, what is the meaning? The meaning is, if we do not leave them, there are only one alternative – to let 150 or 160 passengers who were hijacked to get them killed. I told them several times. Yes, Mr. Minister do you want some such thing?

MR. CHAIRMAN : Do not disturb.

...(*Interruptions*)

सभापति महोदय : स्वाई जी, आप सीधे-सीधे बोलते जाइये।

...(*Interruptions*)

SHRI KAPIL SIBAL: The point is, I had to go outâ€¦â€¦...(*Interruptions*) What I can do behind you, I can do in front of you. ...(*Interruptions*)

सभापति महोदय : हो सके, तो लौटकर आना।

SHRI KHARABELA SWAIN : I did not say anything. These hon. Members told. You can go. I will be happy. I am not preventing you. It is not mandatory for you to listen to me.

I am putting this question. If they are so adamant in repeating the same thing again and again that the NDA Government had committed a grave injustice and mistake by just letting off those terrorists at Kandhahar, then, let them say make a simple statement on this floor of the House that we should have allowed these 160 people get killed and we should not have allowed these three terrorists to go off. Will they do it? I have posed this question several times. No answer was given.

They had learnt a very good lesson from their Left friends because in the `red book' it is written that a lie repeated 10 times, it becomes the truth. They go on just repeating because they were with them for a pretty long time. [r69]

So, they just go on repeating the same thing again and again, thinking that it would automatically become the truth.

But any number of times, you raise this question, I will again put the same question to you –you declare on the floor of this House that it would have been better to have all those people killed. ...(*Interruptions*)

सभापति महोदय : सलीम साहब, आप बैठ जाइए। यह जो बात बिना अनुमति के कही गयी है, उसे रिकॉर्ड में शामिल न किया जाए।

*(Interruptions) â€¦**

SHRI KHARABELA SWAIN : As regards me or many of the persons in my Party, we do not find any third alternative. When Md. Salim becomes the Defence Minister or the Foreign Minister or the Home Minister of this country, he would find out a third alternative. At that time, we would listen to him. ...(*Interruptions*)

सभापति महोदय : आप लोग बैठे-बैठे बात मत कीजिए।

SHRI KHARABELA SWAIN (BALASORE): One of his colleagues, Shri Gurudas Dasgupta asked as to why 180 days. Why did you keep it for 180 days? Are these the canons of democracy? He is a great votary of democracy and a great votary of Nandigram. They are talking about democracy, providing the benefits of democracy, but to whom? Is it to provide values and benefits of democracy to the terrorists, who want to kill the process of democracy?

* Not recorded.

Shri Kapil Sibal is talking about human rights, but human rights to whom? Is it to the terrorists? He is talking about the human rights to terrorists. Why these things happen in this country? If you want to listen, please listen from me because this is our point of view. The reason why terrorist attacks are taking place in India again and again is this. What crime have we committed?

They say that there are softer laws in the USA and the UK. But why did only once the terrorist attack take place in the US? A country like the USA has totally finished two Muslim countries and there is no second attack! What crime have we committed? What mistake have we committed, to have the terrorist attacks again and again?

I will just read from *The Times of India.* It is dated 14th December, just 2-3 days back. It is written by Indrani Bagchi has written:

> "What is the strategy of LeT? If you look at the LeT strategy, it is to weaken India and to help establish Khalifat which is a part of their ideological programme."

This is not a communal paper. This is 100 per cent a secular paper. It is not *Pioneer*. It is *The Times of India.*

सभापति महोदय : जो कुछ इरेलेवेन्ट है, वह रिकॉर्ड में नहीं जाएगा।

SHRI KHARABELA SWAIN : Shri D.P. Yadav is present here. What was his argument? He said that there was no distinction between communalism and terrorism. What is its meaning?

श्री देवेन्द्र प्रसाद यादव : सवाई जी, अखबारों को देखने का अपना नजरिया बदल लीजिए। ...(*Interruptions*) मैंने ऐसा नहीं कहा था। मैंने कहा था कि ये दोनों जुड़वा बहनें हैं।

सभापति महोदय : आपने बहनें क्यों कहा।[R70]

SHRI KHARABELA SWAIN : He meant to say that because of Parties like BJP, Bajrang Dal, Vishwa Hindu Parishad and Sangh Parivar, the Muslims or Islamic terrorists are attacking India. There is a meaning in this. Now, he has also said that there is no distinction between the people of India and the people of Pakistan. The people of Pakistan are one with the people of India.

There was a coup in 1999 when Shri Pervez Musharraf drove out the then Prime Minister Shri Nawaz Sharief from power. When he drove him out he was broadly supported by the people of Pakistan. He was democratically elected Leader and was driven out but the people of Pakistan did not support him. It is only because it was Nawaz Sharief who brought back the Army from Kargil. It was Shri Pervez Musharraf, who was a hero....(*Interruptions*) Give me some more time. I am the only speaker. This is the mind set of the people.

I would like to quote from Times of India of 14th December a report by Ayesha Tammy Haq, a Pakistani. "Social worker Anila Shah says India should address issues raised in the Sachchar Commission Report. We need to deal with our problems at home". What does this mean? Is it that the Muslims are being tortured in India? The Government of India had set up the Sachchar Commission which reported that the condition of Muslims is very poor in India and that is the reason why they are in favour of terrorists. This is what the people of Pakistan say.

The major point that I would like to point out is, even though this Bill has been brought in, my apprehension is that this will not be implemented. It will not be implemented because the Government does not have the will power. The Government does not have the will power because for the last many years it thinks that if it investigates against the terrorists, apprehend them and put them behind the bar then the Muslims of this country will be annoyed and they would not vote for it. This is the only reason why the Government has not tried to apprehend any of the terrorists. Just because the election is coming, all of a sudden the Government has brought in this Bill.

There is always a sense of persecution mentality. Most of the Muslim intellectuals in this country are of the view that there is a perceived sense of persecution, very ably supported by all these secular members. They think that because of Bajrang Dal and Vishwa Hindu Parishad the Muslims of this country are being persecuted. You have said the Muslims of this country are not terrorists. We also say this....(*Interruptions*) We did not say that every Muslim can be condemned as a terrorist. When there was

Batala House incident, where two of the terrorists were killed, most of the Muslim leaders including the Congress Party said it was wrong. They said that the police encounter was false. They even said that Mohan Chand Sharma, the Police Inspector who was killed, was not killed by the terrorists but by his own colleagues. What are you going to achieve by this? Are you not raising the false sense of persecution mentality among the Muslims in this country? [R71]Are you not inciting it? Mr. N.K. Narayanan, your own National Security Adviser said that the Police encounter was correct.

Now the hon. Minister of State for Home Affairs, Shri Jaiswalji is sitting here. He first made a statement in the Rajya Sabha that 50 lakh Bangladeshis have infiltrated and then he withdrew his statement.

गृह मंत्रालय में राज्य मंत्री (श्री श्रीप्रकाश जायसवाल) : सभापति जी, मेरा नाम लिया गया है। आप फाल्स स्टेटमेंट क्यों देते हो।...(व्यवधान)

श्री संतोष गंगवार : आप मंत्री हैं, आप फाल्स स्टेटमेंट क्यों देते हो?

श्री श्रीप्रकाश जायसवाल : कोई फाल्स स्टेटमेंट नहीं दिया गया है। अगर कहीं टैक्नीकल मिस्टेक हुई है तो क्या उसे फाल्स स्टेटमेंट माना जाएगा।

श्री संतोष गंगवार : तीन करोड़ घुसपैठिये हैं।...(व्यवधान) आप रिकलैक्ट कीजिए, तीन करोड़ घुसपैठिये हैं, 50 लाख नहीं।

श्री श्रीप्रकाश जायसवाल : बस इसी तरह से स्टेटमेंट दे-देकर आप पूरे देश को गुमराह कर रहे हो।...(व्यवधान)

सभापति महोदय : बिना अनुमति से कही गयी बात को रिकार्ड में न लें।

...(व्यवधान) *

SHRI KHARABELA SWAIN : Now everybody knows Huji and ISI. It is mostly entering into India through the porous border of Bangladesh. Everybody is saying that this is happening. Again I would say that the Muslims are not to be branded as terrorists but just one day before when Prof. Kader Mohideen who is an hon. Member of this House from Tamil Nadu was speaking, he said that there is no Bangladeshi infiltration. An hon. Member from Assam who was sitting at the back bench was telling that all the Muslims in Assam have come to Assam prior to Independence or 100 years back and there is no infiltration. So, when you are making a statement like this, are you not inciting false sense of discrimination against Muslims? Why should an Indian Muslim allow a Bangladeshi Muslim? If you say that the Muslims and Muslims should enjoin, then why there are separate countries like Pakistan and Afghanistan. Why do they just not join together?

MD. SALIM (CALCUTTA – NORTH EAST): Sir, I am on a point of order under Rule 356.

सभापति महोदय : आपका पाइंट ऑफ आर्डर क्या है?

MD. SALIM : It is regarding irrelevance and repetition and things which are not connected with these two Bills. How can you allow a Member to repeat? We are discussing two Bills but they are not connected with what he is referring to, *i.e.*, Muslims and Muslim intellectuals, etc.

सभापति महोदय : यह सबके लिए लागू होता है।

MD. SALIM : Sir, you should give a direction that he should restrict his speech to these two Bills.

सभापति महोदय : ठीक है, आपकी बात समझ में आ गयी है, आप बैठ जाइये।

* Not recorded.

SHRI KHARABELA SWAIN : When a prominent Member of the Muslim community like Mr. Salim says like this, in a very subtle way he is justifying the terrorists...(*Interruptions*)

मोहम्मद सलीम : सभापति जी, परसों माननीय आडवाणी जी बोले कि इस मामले

को लेकर संकीर्ण दृष्टि से नहीं देखना चाहिए। आप अपने लीडर से उल्टा बोल रहे हैं। ...(व्यवधान)

सभापति महोदय : मैं इसे अलाऊ नहीं करता हूं, आप मेरी तरफ होकर सीधा बोलिये। Please be in order.

...(*Interruptions*)

सभापति महोदय : जो शब्द पार्लियामेंट्री नहीं हैं उन्हें हम निकालेंगे। आप बैठिये।

SHRI KHARABELA SWAIN : Sir, the terrorists are very cunning. Deliberately they have not attacked West Bengal because they know that â€¦.*(Interruptions)* *

सभापति महोदय : सलीम जी, अगर आपने बोलना है, तो इजाजत ले कर बोलिए।

â€¦(व्यवधान)

MR. CHAIRMAN : Shri Swain, please conclude now.

...(*Interruptions*)

SHRI KHARABELA SWAIN : Sir, they are the facilitators of the Bangladeshi ISI agents and HUJI agents. They have made them their voters and because of their votes they are winning elections for the last 30 years...(*Interruptions*)

MD. SALIM : Sir, what is the basis of making such statements?...(*Interruptions*) How can he make this charge?...(*Interruptions*) He has to apologise...(*Interruptions*)

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* Not recorded.

सभापति महोदय : माननीय सदस्य ने अगर कुछ गलत कहा है, तो वह प्रोसीडिंग्स में से निकाल दिया जाएगा।

â€¦(व्यवधान)

MR. CHAIRMAN: We will see if there is any unparliamentary remark. Please take your seats now.

...(*Interruptions*)

MR. CHAIRMAN: Nothing will be recorded. Please take your seats now. Nothing is going on record.

*(Interruptions) â€¦**

सभापति महोदय : स्वाई जी, आप कृपया एक मिनट के लिए बैठ जाइए।

THE MINISTER OF OVERSEAS INDIAN AFFAIRS AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VAYALAR RAVI): Sir, I am on a point of order. There can be arguments and everything but making very serious allegations against any Member is very unfortunate. Please delete any such remark from the records.

MR. CHAIRMAN: Anything unparliamentary will not go on record. We will see to it. Nothing irrelevant will go on record. जो आरोप लगाए हैं, उन्हें प्रोसीडिंग्स में से निकाल दिया जाएगा।

*(Interruptions) â€¦ **

MD. SALIM : Sir, he must apologise...(*Interruptions*)

MR. CHAIRMAN: Nothing is going on record. I am not allowing anybody. मैं किसी को बोलने के लिए अलाओ नहीं कर रहा हूं।

...(*Interruptions*)

सभापति महोदय : कुछ भी रिकार्ड में नहीं जा रहा है। आपके बोलने का कोई फायदा नहीं है।

â€¦(व्यवधान)[r72]

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* Not recorded.

18.25 hrs (Mr. Deputy-Speaker *in the Chair*)

...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please sit down. First of all, I will listen to Shri Rupchand Pal.

SHRI RUPCHAND PAL (HOOGHLY): Sir, the objectionable statement which has been made by the hon. Member should be deleted from the proceedings.

MR. DEPUTY-SPEAKER: That has already been done.

...(*Interruptions*)

SHRI N.N. KRISHNADAS : Sir, making this kind of a statement is totally against the general sense of the House. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: That has already been expunged. Please sit down. Anything spoken without my permission will not go on record.

*(Interruptions) â€¦**

SHRI KHARABELA SWAIN (BALASORE): Sir, the hon. Minister, Shri Kapil said as to why should there be a confession. Why confession made in front of the police should be accepted as an evidence? What does he mean by that? Does he mean that the terrorists will come and given evidence against them? Will they confess it? If you just go on telling goody-goody words, will they confess what they have done? It is very natural that for confession, they will have to be put behind the bars. It is very natural. And the Government did the right thing by doing this. How can you say, why 180 days, why not 90 days and so on? It should have been more like three years. Don't we have value for our lives? They speak like this because West Bengal has not been attacked at any time and because Kerala has not been attacked. They speak as though other people do not have any value for their lives. ...(*Interruptions*)

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* Not recorded.

MR. DEPUTY-SPEAKER: No. Nothing is going on record. Only the statement of Shri Swain should go on record.

*(Interruptions) â€¦**

MR. DEPUTY-SPEAKER: Please sit down.

SHRI KHARABELA SWAIN: I will just come to my last point. We are going to have an institution called the National Investigation Agency. We are going to form the National Investigation Agency. It is a very good thing. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please sit down. Nothing is going on record.

*(Interruptions) â€¦**

MR. DEPUTY-SPEAKER: That has not been recorded. What you are saying is not going on record. What he is saying is also not going on record.

*(Interruptions) â€¦**

SHRI KHARABELA SWAIN : We are having an agency called the CBI. It is a highly respected agency in this country. Whenever there is some trouble, everybody says "Let the CBI investigate it". But when the UPA Government has come to power, to what level have they brought it down? Take the case of Taj Corridor and the disproportionate assets case. I am not taking names. CBI said something when the Bahujan Samaj Party was with them and they wanted that the Taj Corridor case should not be investigated. Now, when another party has come to their support, that is, the Samajwadi Party, the CBI goes to court and says that the Government of India has asked them to go slow. They have entirely denigrated the pre[U73]stige and integrity of CBI. I

have a very strong doubt that if this Government remains in power, they will behave in the same manner with this Agency also and they will denigrate the National Investigation Agency and they will make it the agent of the Government.

* Not recorded.

People of this country are listening to us and to them also. Let them decide who is for the nation, who is for the country, and who is for the people.

MR. DEPUTY-SPEAKER: More than twenty hon. Members are to speak on these Bills. So, I would request all the hon. Members who wants to speak to take only five minutes to make their suggestions on these Bills. Otherwise, it may not be possible to conclude the debate today.

SHRI KIRIP CHALIHA (GUWAHATI): Mr. Deputy-Speaker, Sir, thank you very much. I rise to support these two very important Bills which have been brought by the new Home Minister, the National Investigation Agency Bill, 2008 and the Unlawful Activities (Prevention) Amendment Bill, 2008.

The Bills are very timely. Since we are discussing both the Bills together, I would like to speak first on the National Investigation Agency Bill, 2008. I compliment the Home Minister for the creation of this new institution. This, I must say, has been our long-standing demand of most of us who have faced the menace of terrorism for quite some time now. As has been rightly pointed out, our friends on the right have been harping on fighting terrorism day in and day out, but they have not done anything effective. Today, at least we have created an instrument through which the Central Government is given certain teeth to fight anti-social forces, to fight the menace of terrorism in a more effective manner. The State machinery and the State police apparatus have proved to be inadequate in many respects over the years now.

It is a fact that the terrorist network and the terrorist outfits have national and international connections. To fight them, the State police or the concept of the law and order being the State subject, has not been yielding results over the years now. Our experience shows that a national agency which can override State differences, which can look into the international and national connections solely from the terrorist angle is needed. I think the National Investigation Agency that is being created will go a long way in tackling terrorism in the right manner. I have found it to be having a very close balance between what is sometimes called by our friends here as 'authoritarian' and sometimes by our friends on the other side as 'liberal'.

I think this is a very appropriate Bill. Clause 5, Chapter III, gives the Centre the power to take *suo motu* cognizance of an offence. It is very important because in many cases certain things occur in a particular State, which may have its origins in some other State. Unless some agency has this kind of power, it is totally ineffective. Similarly, empowering the National Investigation Agency to look into any other offence, which includes financial offences and offences of smuggling, drugs, etc., which has got connection with insurgency and terrorism, is also a right step[MSOffice74].

The best thing is that by giving these powers, we are not taking away any power from the State Governments because the State Governments continue to have the inherent power to act in these cases. What this Agency is doing is only supplementing them. It is only an additional action against terrorism. I think that is the beauty of this new Bill.

Sir, on the judicial side also, the steps taken for the speedy trial of the cases and also feeling the extremists' pressures, by protecting the weaknesses and similarly empowering the judges and ensuring their continuity are welcome steps and the fact that the High Court has been given power is extremely pertinent to say the least.

Sir, similarly, the National Investigation Agency cannot act without the changes that have been brought in the Unlawful Activities (Prevention) Amendment Bill. Both of them are complementary. Now, at least, you have an effective machinery to tackle terrorism to the best extent possible. I am not saying as some of the friends from the Opposition have said; the

Government side is not saying that this Bill is the end of everything and this Bill will solve terrorism as a whole. Nobody is saying that. But we have taken a good step and a strong response is being given to a very urgent situation which has developed and we should all welcome it.

Sir, I must say a few words to the attribution of motives to the Bill and to the *post mortem* that have been made by some of those people who have been thinking that perhaps terrorism will become a very good instrument to gain political support and perhaps to gain power in spite of all the evidences to the contrary. ...(*Interruptions*)

Sir, I will just give two or three instances which come to my mind immediately. I do not think that terrorism should be politicized. It is only the victims of terror know what the terror is. You can politicize terror, but it is important that while politicizing terror, while seeking votes from them, you should also be sensitive about terror.

Sir, there is one national leader who went to Assam. I am extremely sorry to say this as I have never said it before. When the dead bodies were lying, the next day he said that the people of Assam must give a befitting answer through the election. Was seeking votes by a national leader of a national political party when terrorism were affecting people and killing people a right thing? My friend, Shri Kharabela Swain has said just now about terror. Terror can also hit you tomorrow and terror which has been hitting us; please do not play politics with that. He said that people will give them votes and will throw out this Government. Whether this Government or that Government, we have to fight terror unitedly. ...(*Interruptions*) We are not absolving you from the responsibility of playing the role of the Opposition. But there are moments when you have to rise above vote bank politics; there are moments when you have to emerge to secure the lives and property of every Indian national whose lives are endangered because of terror. Terror is not something on which you can seek votes. ...(*Interruptions*) The Government changes or the Ministers lose their posts, but terrorism is more dangerous.

Sir, I would not like to go beyond this except saying my last sentence. A number of objections have been raised about some of the laws being a little soft in the case of onus and in the cases of giving bails. What I am saying is that if we object to certain things about *Batala House,* we should not do the same thing in case of Malegaon. We become very sympathetic if some *Sadhvi* is arrested for Malegaon and kept in confinement. We make big speeches; we make big protests and we attribute all kinds of motives for *Batala House.* Double standard does not pay. That is the lesson one must learn. Till we learn that lesson, no fight against terrorism will be complete. It will always be a mock fight.

With these words, I conclude.

MR. DEPUTY-SPEAKER: I would request Prof. M. Ramadass to speak now. Kindly take only five minutes.

PROF. M. RAMADASS (PONDICHERRY): Sir, on behalf of my Party, I rise to support these two Bills.

MR. DEPUTY-SPEAKER: We have taken a decision. I think the opinion some of the hon. Members is like this. The parties' time has already exhausted.

...(*Interruptions*)

उपाध्यक्ष महोदय : नेशनल पार्टीज जिनका पहले समय खत्म हो गया, उनको समय नहीं दिया जाएगा। जो रीजनल पार्टीज हैं, उनको बोलने के लिए समय देंगे।

श्री राम कृपाल यादव : सर, ऐसे कैसे होगा ?...(व्यवधान)

उपाध्यक्ष महोदय : जिन पार्टीज के पास समय होगा, उनको जरूर बुलाऊंगा लेकिन जिन पार्टीज का समय खत्म हो गया है, उनको नहीं। प्रो. रामदास जी, आप कंटिन्यू करिए। Those hon. Members who want to lay their written speeches can lay them on the Table of the House. They will form part of the proceedings.

...(*Interruptions*)

उपाध्यक्ष महोदय : प्रो. रामदास जी, आप कंटिन्यू करिए।

PROF. M. RAMADASS (PONDICHERRY): Sir, on behalf of my Party, I rise to support these two Bills which are before the consideration of this august House.

At the outset, I would like to appreciate and congratulate the UPA Government headed by Dr. Manmohan Singh and ably guided by Madam Sonia Gandhi for piloting these two Bills which taken together would act as a deterrent to the terrorist activities in the country which have come to pose a grave and great challenge to the sovereignty and integrity of this country. When these two

Bills go into operation, the people of this country as well as the people all over the world would come to realize that the UPA Government is not soft in containing terrorism but tough in containing and combating terrorism in this country. In fact, these two Bills try to safeguard the liberties of individuals and the sovereignty of the nation without trampling upon the democratic values as well as the human rights of individuals. They will protect the country and its citizens by righteousness.

We have been hearing conflicting views on containing terrorism. But we cannot have both these extremist views in containing terrorism. The solution lies in the middle path of having both the views, the advantage of both the views of having POTA or not having POTA. Therefore, I would feel that this Bill strikes a balance of views. As the hon. Home Minister has said, it strikes a fair balance of conflicting views with regard to the containment of terrorism in the country.

For instance, a lot of legal dexterity has gone into the making of these Bills and we should appreciate the hon. Home Minister for his masterly craftsmanship of these two Bills. Both the Bills are based on certain well-defined objectives. They have been brought forward on the basis of the recommendations given by the Administrative Reforms Commission.

Coming to the National Investigation Agency Bill, I must say that this Bill straightaway goes into the constitution of an institution at the national level which would investigate and prosecute the terrorists in the country. These offences are clearly specified in the Schedule to the Bill. Since this Bill will not deal with the offences of law and order, itwill not go against the provisions contained in the State laws. In fact, it will help the States. It will supplement and supplant the efforts of the States in investigation. In fact, the Central Government would order this Agency only on receipt of the report with respect to the occurrence of an event in a particular State. Therefore, there is no question of the Central Government encroaching upon the authority of the State Government in dealing with the law and order situation. Actually, this Agency will not deal with the law and order matter but it will deal with only offences which are committed against the nation, against the State, against the international institutions. Therefore, there need not be any iota of doubt in the mind of anyone that this will create Centre-State friction in the implementation of this Bill at the State level.[R75]

The second merit of this Bill is that it provides for speedy trial and execution of the terrorists and various provisions in this Bill show how the speedy trial will take place. For instance, a special court will be constituted by the agency and a judge will be appointed within 7 days of the receipt of the communication from the Government of India. This shows that the Government would earnestly take up this matter and finish it as quickly as possible.

Secondly, the special courts will hear the matter on a day-to-day basis and precedence will be given to this case over other cases and the special court will have the powers of a Session Court which means that after the case is tried there, the appeal will lie with the High court and then it will go straight to the Supreme Court and there will be no other intermediary stages by which it can be taken up.

Thirdly, the appeal will also be disposed of within a period of 3 months. With all these merits, I would like to indicate to the hon. Home Minister that this Bill does not have two provisions which are normally given in any Bill. For example, if officers do anything in good faith, they will be protected. This is given in many of the Acts, but this Act does not have that provision. Then, the penalty for the misuse of this Act by the officials is also not provided. Then, the Financial Memorandum does not give as to what would be the annual expenditure on this agency. The hon. Minister has probably estimated only for the remaining part of three months of this financial year, but this also can be taken up.

With regard to the Unlawful Activities (Prevention) Amendment Bill, I would like to say that the Bill places the burden of proof on the accused under two specific conditions. If arms or explosives are recovered from the possession of the accused and there is reason to believe that such arms and explosives were used for the commission of the offence, finger prints or any other definitive evidence are found at the site of the offence, under such conditions the courts shall presume that the accused has committed such offence unless contrary is shown. This is more stringent than the provisions of the POTA which stated that the court shall draw adverse inference against the accused. There are three broad parameters for judging guilt. Most laws require the evidence to be proved beyond reasonable doubt. This Bill assumes guilt unless innocence is proven.

Therefore, I wholeheartedly welcome these two Bills and I would like to inform the opposition parties that the entire nation is behind the UPA Government. If any doubt is lurking in the minds of Mr. Swain and others, they can look into the verdict in Delhi, the verdict in Rajasthan and the verdict in Mizoram where the people have clearly voted for the UPA Government for its achievements in the last 4 Â½ years. These two Bills add to the feather of the UPA Government and therefore, I fully support these two Bills.

*SHRI J.M. AARON RASHID (PERIYAKULAM) : Respected Sir, We welcome the Hon'ble Prime Minister's initiative to bring this new Anti-Terror Bill. This Bill is really a moral booster to the citizen's of this country and the forces looking after the security of

the Nation. Earlier our Government under the auspicious guidance of Hon'ble Madam Sonia Gandhi Ji after assuming power at the Centre and under the leadership and stewardship of Dr. Manmohan Singh ji, we had withdrawn the Draconian Law the POTA.

India's economy is booming in all spheres, particularly in Technology. India is the 3 rd Country in the world to send its Satellite CHANDRAYAN to Moon, well advanced in technology, self reliant in food and other necessary required items for Nation Building. The neighbouring Nations and the World powers do not want India to become super power militarily and economic power financially. Sir, in this recent recession affecting the economies around the globe, many American and European Banks have lost their credibility. Those Governments have bailed out billion of dollars Government money to save them. Sir, Indian Banks are moving in the right direction under the proper guidance of our Hon'ble Prime Minister Dr. Manmohan Singh Ji.

In the recent Election the opposition parties particularly the NDA, (who) are always very happy when ever a bomb blast occurs that too before Elections. Our great charismatic leader, who took this country forward in IT and all other fields Sh. Rajiv ji, was assassinated by human bomb by the banned outfit LTTE at Sriperumbudur. The Nation and the world shed tears which ran like rivers.

We have to safeguard our important tourist destinations, pilgrimage centers and historical places. Every individual in this country is welcoming this new anti-terror law which has been proposed by our Hon'ble Prime Minister Ji & Home Minister Ji. This type of unanimity among the public, parliamentarians, and political parties cutting across party lines, industrial giants and social activists has never been seen before.

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*The speech was laid on the Table.

Terror has no caste & religion. Whosoever having links with any terror outfit has to be dealt firmly. The Malegoan blasts have opened the eyes of the people of this country. The saffron people have killed Mahatma Ji in the name of Muslim Minority. Now to a surprise a Sadhvi (Pragya Singh Thakur), Military Officials and others have been arrested by ATS police. The people of this country have mourned the deaths ATS Chief Sh. Hemant Karkare and his two aides Sh. Ashok Kamte and Sh. Vijay Salaskar, and NSG Brave Commando Officer, Sh. Sandeep Unnikrishnan, who sacrificed their lives in the recent bomb blasts, which has shocked humankind all over the world. Such noble Officers have to be honoured by giving our country's gallantry awards and we have to put up their statues before the Police Head Quarters/Military Establishments in the respective States, so that every Officer will have the courage, service mind of these Officers and show their endeavour, honesty and devotion to the Nation's Welfare.

Sir, in the recent elections the NDA had thought that after the Mumbai Bomb Blasts they would win in the Elections. They tried their best to politicize the incident for their political benefit, by bringing colorful advertisements in the Newspapers and magazines, projecting themselves as saviors of Nation. But every thing went in vain, particularly the Capital of Delhi and Rajasthan which went for polling after the bomb blasts. In the five State Elections, our Congress Party under the dynamic leadership of our respected leader Shrimati Sonia Ji won in Delhi, Mizoram and Rajasthan and won more seats in Madhya Pradesh and Chattisgarh. The election outcome really backfires for the NDA for indulging in petty and communal politics.

I once again stress that a particular Muslim Minority should not be targeted for the Blasts. During the last so many years, country has been facing these blasts, when innocent people's blood is spilled on the roads, be it J&K, North-East, Bangalore, Jaipur, Gujarat, Delhi and recently Mumbai etc. May I ask this August House, is there any mechanism/scientific formulae to establish the identity of the blood whether it is of a Hindu or Muslim or Sikh or Christian? No, Sir. It is blood of India and Humanity "*Ye insaniyat ka khoon hai aur Haivaniyat ki darindgi*". I further request this August House and representatives of the public present here to convey message of peace, brotherhood, religious tolerance in their respective constituencies and the country and not pin-point on any particular community or party.

The Union Government has to enquire in depth about the involvement of neighbouring countries and the International Super Powers. An Enquiry Commission has to be constituted by a sitting Supreme Court Judge to investigate in depth and bring out the real culprits involved in the blasts, the reason behind, their intention and blasts occurring before any Elections. The NDA led BJP are en-cashing these blasts by targeting the Muslim Community to en-cash the voting pattern of the Majority. In the recent 5 State Elections the people of India have learnt their mala-fide intentions by advertising the terror photos in Newspapers.

Sir, the UPA Government under the auspicious and dynamic guidance of Hon'ble Madam Sonia Ji and the leadership of Hon'ble Prime Minister Dr. Manmohan Singh Ji is doing extremely well and the Congress is the only Secular Party, which always works and thinks for the Welfare of the people of this Country.

Sir, I once welcome this Bill for setting up of National Investigation Agency and enactment of Unlawful Activities

Prevention Act in the larger interest of the Nation. Sir, with these words I conclude.

*SHRI PRALHAD JOSHI (DHARWAD NORTH) : Respected Sir, I rise to speak in support of bringing the law against the terror acts in form of National Investigating Agency Bill, 2008 introduced in the House today by Home Minister.

The need for such an enactment was a long felt urgency of the Nation. But due to long and deep slumber of this Government it was never attempted. But at least now the Government has opened its eyes and sensed the real threat by terrorism, to the safety and sovereignty of our country it is most unfortunate that this Government had needed to wake up the kind of dastardly attack on Mumbai, the heart land of our trade and Commerce, and loss of valuable lives of innocent people.

I don't want to go in detail of the merits and demerits of the Bill. Let us be clear about one thing that the objective which this NIA Bill 2008 intends to achieve is the point to be pondered rather than politicizing the Bill. As our Honourable leader of the opposition, Shri Advani Ji rightly and aptly remarked " the same bill if were to be introduced by NDA it would have been branded as Communal Legislation.

The only Suggestion I would like to make to Honourable Home Minister that sufficient care must be incorporated in this law to avoid slightest possible misuse and mischief by implementing agencies under this Law because the broader purpose of such laws which are aimed at achieving the ultimate victory over terrorists will be defeated by a motivated use of any of the provisions of this Act. Therefore the wisdom of this House be at its best in incorporating sufficient and ample safeguards against exploiting the innocents and even against settling the political scores. Thanking you.

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* The Speech was laid on the Table.

SHRI M.P. VEERENDRA KUMAR (CALICUT): Mr. Deputy-Speaker, Sir, I will not take much time. I would like to say that by insisting on draconian laws, we can never tackle terrorism. Earlier we had the experience of POTA and other laws, but still a lot of terrorist activities have taken place and nobody could curb that.

With regard to long detention, which everybody demands, I would like to say that this is a measure to curb such activities. Here, I would like to quote what the Chief Justice of India has said. He said:

> "Furthermore, the trauma resulting from the terrorist attacks may be used as a justification for undue curtailment of individual rights and liberties. Instead of offering a considered response to the growth of terrorism, the country may resort to questionable methods such as promoting indefinite detention of terror suspects, the use of coercive interrogation techniques and the denial of the right for fair trial."

This is what the Chief Justice of India has observed.

Sir, I was surprised to hear Shri L.K. Advani who said that the confession should be taken as evidence. If anyone of us is entrusted to a police officer, including Advaniji, even he will confess that he is a dreaded terrorist in this country. The police officers can extract such a confession by employing coercive interrogation methods. This can happen.[R76]

O[r77]nce it is said that the police officers are so fast who can get the culprits in 24 hours. All the police stations have apprehended the culprits. With such methods you can make anybody a culprit. So confession should not be part of the evidence. When he said that, I was surprised about it.

The best way to face terrorism is by strengthening the democratic framework and secular polity of this country. After the Mumbai attacks, it is very heartening to note that there was not a single communal violence in this country. The nation -- the Muslims, the Hindus and everybody -- stands united. That is the response. By mere law, I do not think, terrorism could be curbed. The entire people of the country have to be the watchmen, they have to be the policemen, they have to strengthen their security and that is

the only way to deal with this. Any politics to divide them is very dangerous.

About legislature, I would like to say and I am again quoting from the Chief Justice: "In India, those who subscribe to this view also demand changes in our criminal and evidence law – such as provisions for longer periods of preventive detention and confessions made before police officials to be made admissible in court. While the ultimate choice in this regard lies with the legislature, we must be careful not to trample upon constitutional principles such as 'substantive due process.' This guarantee was read into the conception of 'personal liberty' under article 21 of the Constitution of India by our Supreme Court." So, when we make legislation, we have to strengthen our provisions to safeguard fundamental rights.

Also, when we give too much of power to the bureaucrats, what would happen? Again, I would like to quote from the Chief Justice: "This is required because in recent counter-terrorist operations, there have been several reports of arbitrary arrests of individuals belonging to certain communities and the concoction of evidence – such as the production of similarly worded confession statements by detained suspects in different places. The proposal for the admissibility of confessional statements made before the police is also problematic since there are fears that such a change will incentivise torture and coercive interrogation by investigative agencies in order to seek convictions rather than engaging in thorough investigation." This is the observation of Chief Justice while talking about terrorism.

I do not want to take much of the time of the House. The hon. Home Minister has said that some of the measures suggested in POTA have been taken out and it is a compromised Bill. But still I feel, the accused has to prove the innocence before the court cannot be a natural justice. Prosecution has to prove it ultimately. That is the law. I think, in all these things, we have to see that individual rights are protected.

Regarding the federal agency, it can intrude into the rights of the States. *Suo motu* they can take all the rights of the States and that will ultimately happen. The Central Government can do anything with the State. They can operate anywhere, they can apprehend anybody and they can prosecute anybody as the CBI is used by the Central Government as an agency for some of their purposes. This agency could have been misused. This will destroy the federal structure of this country. We have to be careful in these things.

I would urge upon the hon. Home Minister that some of the measures should be taken out of this Bill and I think, we have to give more attention to see that the people of this country are united, our democracy is protected, our secularism is held high and no force should be allowed to trample with it. I think that is the way to meet terrorism.

SHRI SARBANANDA SONOWAL (DIBRUGARH): Sir, I rise to point out some of my observations on these two pieces of legislation. I consider these pieces of legislation as the product of the legal and Constitutional wisdom of our hon. Home Minister, Chidambaram *ji*. Within a short span of time, he put a lot of efforts to bring out these particular important legislations to this House. I hope that if this particular Bill is properly used, then the principal objective of the Bill can be achieved. It is because, terrorism has created havoc throughout the country and it has brought a sense of insecurity among the people of this country. That is why, it is the need of the hour. But, in the process of implementing this particular Bill, we should be very much careful because in Assam and North East, since Independence, we had to go through some bitter experiences of some of the draconian laws, namely, the Armed Forces (Special Powers) Act, 1958 and TADA. These are the Acts out of which the people of Assam and North East, particularly the innocent people, had to suffer a lot. That is why, I have a humble submission through you to the hon. Home Minister that the right to life and liberty under the provision of Article 21 of the Constitution of India, should be strictly maintained with some reasonable restriction. That is why, my submission is that this reasonable restriction should be specifically mentioned to see how in the process of implementing this particular Bill, to curb terrorism, the peace-loving people will be undisturbed. It is because, we are targeting the terrorists to hit them and not the innocent people of the country. That is why, my submission is that we should not disturb those people who are deeply concerned about the security of the country, about the sovereignty of the county. Taking them into confidence, this particular proceeding should be continued.

Sir, I have one more submission. In the previous time in Assam, we had to raise many more demands because of the misuse of these kinds of draconian laws; the Armed Forces (Special Powers) Act, 1958 was not properly used. It is because of that, many innocent people had to suffer. That is why, the persons who will be involved in this particular famous institution, they should be properly trained. They should be trained to learn the local language of the countrymen. We have got several recognized languages in the country and several dialects also. If the officers entrusted to carry out the responsibility do not understand the languages and dialects of the people of this country, then it will be very difficult to carry out the operation. That is why, to communicate with the people of the country, they must be well trained. It is because, earlier, there was a communication gap. This is an era of communication. If we fail to communicate with the people properly, then it will be very difficult to find out the culprits living among the people of the country.

These are my points. I would very sincerely like to draw the attention of the Central Government that this particular step of the Government of India has to be a successful step.[r78]

There has to be a very effective mechanism. I hope that the hon. Home Minister will definitely consider this particular point, and he will put those important reasonable restrictions to maintain and to protect the right to life and the right to liberty of the people of the country.

MR. DEPUTY-SPEAKER: Now, I would request Shri Asaduddin Owaisi to speak only for five minutes.

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SHRI ASADUDDIN OWAISI (HYDERABAD): Mr. Deputy-Speaker, Sir, at the outset I would like to make it clear that we are one with the Government; the people of India are with the Government; and the international community at large sympathizes with the Government of India's problem which we are facing now.

There are two Bills over here. I will take the second Bill first, that is, the Unlawful Activities (Prevention) Amendment Bill. Sir, my Party opposes this Bill. Why do we oppose this Bill? It is because Section 50 of the principal Act talks out terror. What is terror? That is not defined. Secondly, Section 50 of the principal Act talks about the terrorist act. The whole definition has been taken from the National Security Guard Act, 1986. I would call it an intellectual dishonesty. Let us see what the National Security Guard Act, 1986 says. 'Y' paragraph defines as to who the terrorist is. It says:

> "Terrorist means any person who with intent to over-awe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, â€¦"

After that, it says: 'â€¦ does any act or thing by using bombs â€¦", and that is incorporated. If you are taking this whole definition and you are putting a terrorist Act, why did you leave out the definition part? If there is no difference between an act which promotes enmity and which promotes communal harmony, is that not a threat to India's sovereignty and India's unity?

Kindly see the Section 50 (a) of the principal Act. It says: "(a) by any other means of whatever nature to cause or likely to cause â€¦". This is a subjective thing. And tomorrow if an investigating officer can even arrest Arundati Roy for what she is writing. This - 'by any other means of whatever nature â€¦" is a subjective thing. Who defines it?

My third point is this. You come to Clause 43 (D) – 180 days' detention. With all the confidence I can say that in hundred per cent of the cases wherein minorities are arrested, they will be in detention without charge sheet for 180 days. It is because that is what is happening as of now. This happened in my own State. We have a dynamic Chief Minister who has done a lot for minorities. The ground reality is that there is a huge difference between reality and hope. A man in uniform has an inborn hatred towards the Muslim minority. That is a fact. The fact is that he starts his investigation on the premise that the Muslims are terrorists. I can say with all the confidence that they will be detained for 180 days. Secondly, if a person is booked in three cases, he will be detained for 180 days in each case. This is happening everywhere even before this has been brought over here.

Another issue is about bail. Please see page no. 5, paragraph 25. This is a limit on judicial discretion. Any public prosecutor will stand up and oppose the bail. What will the Case Diary say? Will the Case Diary write flowers about the accused? The Case Diary will, of course, follow what is there in the charge sheet and what is there in the FIR. You are using words to cover up all these things.

Then, please see clause 43E - the onus shifts to the accused if he is found with explosives and arms. I was listening very attentively the speech of the Minister of Science and Technology. He represents Delhi. [H79]

In December, 2005 two Muslim boys, Irshad Ali and Mahroof Qamar were arrested by the Special Cell of Delhi. The CBI, four days ago filed a report in the court stating that the Special Cell had planted RDX, placed two pistols and called them to be belonging to *Ad Badr* Terrorist Organisation. Can this not happen? Can the RDX not be put by their agencies? What are the safeguards in this Act over here?

MR. DEPUTY-SPEAKER: Please conclude.

श्री असादूद्दीन ओवेसी : सर, प्लीज आप मुझ पर मैहरबानी कीजिए। यदि आप मुझे बैठने के लिए कहेंगे, तो मैं बैठ जाऊंगा।

उपाध्यक्ष महोदय : मेरा कहना है कि आप कनक्लूड कीजिए।

श्री असादूद्दीन ओवेसी : सर, यह हमारी जिन्दगी और मौत की बात है। मुसलमानों का कोई लीडर नहीं है। मुसलमानों के लीडर तो ये लोग हैं। हम इन्हें वोट डालकर आए हैं। मैं तो लीडर नहीं हूं। मैं अपनी बात किसे बोलूंगा? मेरी आंखों में आंसू हैं। वे आंसू आपको दिखाई नहीं दे रहे हैं, लेकिन मुझे दिखाई दे रहे हैं। इसलिए कम से कम मुझे दो मिनट और बोलने दीजिए। यह एक अहम मुद्दा है, जो हमारी जिन्दगियों को तबाह और बर्बाद कर के रख देगा।

पैंट्रियट एक्ट की बात हुई। जॉर्ज बुश ने पैंट्रियट एक्ट को पहली मर्तबा बगैर किसी बहस के पास किया। कम से कम हमारे होम मिनिस्टर साहब ने 24 घंटे का वक्त तो दिया। इसके लिए मैं उनका शुक्र-गुजार हूं। वहां तो पैंट्रियट एक्ट एक ही झटके में पास हो गया। [r80]

Another point is about Clause 51A. The words used there are: "â€¦any other person engaged in or suspected to be engaged in terrorism."

Sir, it is the primary principle of criminal jurisprudence that mere suspicion is not an offence.

These are the words, which we have used over here. Tomorrow, the assets of any Darul-Uloom Deoband scholar can be frozen on a mere suspicion of terrorism. These are the words that you have used in this Bill.

Where is the Sunset Clause in this Bill? Why cannot we have a Sunset Clause in this Bill? There should be a Sunset Clause because accountability will be put on the Investigation Agency. Why is not the IB made accountable to this Parliament? What is wrong in making IB accountable to this Parliament?

Mr. Deputy-Speaker, Sir, whenever any political change happens in India, the Andhra Pradesh IB also telephones me and asks me: "How is it going to affect the Ruling party?" I wanted them to ask: "What about these terrorists action where innocent Muslims are being picked up? How is that going to affect us?" But such questions are never asked.

I am again coming back to what the hon. Minister of Science said. He talked about MCOCA. If Mr. Kapil Sibal feels that the Unlawful Activities (Prevention) Amendment Act is a cure to all the terrorist activities, then his party should immediately scrap the MCOCA in Maharashtra. Why were they continuing with MCOCA, when TADA was there? He has completely forgotten to read the speeches given by his leaders, when POTA was being passed on Marc 26, 2002. I took the liberty of going to the Library and reading all the speeches. If I start quoting the speeches of the Congress leaders on that day, it will be very bad over here. 'Draconian laws cannot stop terrorism' were the words being used by them.

But now, what are they doing? This law will target only the Muslims, let me be very clear in the name of terrorism.

Terrorism has to be stopped. But in what way? There is a huge difference as to what is happening on the ground. I am being targeted everyday. Even when Mr. Rajasekhara Reddy cannot control those communal police officers, how do we expect when you talk about an Authority to be formed?

MR. DEPUTY-SPKEAER: Now, please conclude.

SHRI ASADUDDIN OWAISI : Sir, please give me some time.

The Authority will sanction the prosecution. Who will be the Authority? You are not creating the law for New Delhi, you are not creating the law for Andhra Pradesh. You are creating the law, which will affect the whole nation at large. What will happen Gujarat? What will happen in those States, which are inimical to the Muslims, who do not stand for the secular ethos of this country? Have you given a thought to it?

At least, some time should have been given. I could have gone to my UPA leadership and explained all these problems as to what is the mood of the nation. I would go on record and say, Mr. Deputy-Speaker, that this is nothing. They say that this Bill is being brought only to satisfy the collective conscience of the society. But are the Muslims, the minorities part of your collective conscience or not? That is the moot question, which has to be answered.

Secondly, coming to NIA, in the All-Party Meeting, my party had welcomed it. But your own Standing Committee, on March 31st this year, disagreed. They said, make the CBI as NIA, there is no need of NIA over there. But even in the NIA Bill, on offence, there are 8 Schedules, which talk about Sections 121 and 135 of the Indian Penal code. There is no problem. Then, Sections 488 and 489 of the IPC are there, which belong to all these illegal money transactions. But what about Sections 153A and 153E of the IPC?[r81]

What has happened in Kandhamal? Is it not a threat to India's unity and integrity? I am surprised that Sections 153A and 153B are not being brought in this Act. What is stopping you from bringing it? The National Investigation Agency is fine but what will be the constitution of that NIA? Will it again be a turn to be a club of upper caste people?...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please conclude now.

SHRI ASADUDDIN OWAISI : Lastly, I would like to say that my Party will support the National Investigation Agency. But on the second Bill, I will walk out from this House because I cannot sit here. The Government is acting in haste.

MR. DEPUTY-SPEAKER: Now, Mr. K. Francis George. You please speak only for five minutes.

*SHRI S.K. KHARVENTHAN : (PALANI) : Sir, I rise to support the two landmark Bills introduced by Hon'ble Home Minister Shri P. Chidambaram under the able leadership of Dr. Manmohan Singh.

The Criminal Justice Delivery System is based on three acts namely Evidence Act, Criminal Procedure Code and Indian Penal Code. Those acts were enacted by Britishers during their regime more than 145 years ago. After independence upto 06-12-1992, when Babri Masjid was demolished by Sangh Parivar and their allies those age old Criminal Laws were sufficient to control the crimes in the country. After the above incident the total scenario of this country changed and everywhere we are able to see terrorist activities. Day-by-day Terrorism, Hijacking and Drug Peddling activities are increasing. Furthermore, criminals are taking advantage of some weak police force, loopholes in the Criminal Justice System and corruption in Subordinate Judiciary.

The Union Government is responsible for the sovereignty and integrity of the country. Under Article 355 of the Constitution, it is the responsibility of the Union Government to protect every State against internal disturbances. In our country, we are having Central Bureau of Investigation. For it, powers are derived under the provisions of Delhi Special Police Establishment Act, 1946. As per our Constitution, CBI can't directly take up any case for investigation unless case is referred by respective State Government or the order of Hon'ble High Court. According to our Constitution, Law and Order is a State Subject. On this ground, some of our colleagues come forward to say that the present Bill for Establishment of National Investigation Agency is affecting our Federal set up but it is not correct. I want to put forth certain facts before the August House. Our Congress Government promulgated Terrorist and Disruptive Prevention Act (TADA) and the same has been challenged before Honourable Supreme Court about its

* The Speech was laid on the Table.

Constitutional validity, but Supreme Court upheld its Constitutional validity. Before Hijacking IC 804 from Kathmandu in 1999, all the Airports are protected by State Police. After that all Airports had come under the control of Central Industrial Security Force.

In this country, the VIP security including that of the Prime Minister is the responsibility of State Government but no State has even objected to the Special Protection Group providing security to the Prime Minister and other VIPs. FBI in the USA does not need the permission of State Governments to investigate a specified crime. Hence our Government proposed this Bill to tackle Jihadi Fanatics and terrorists. The present Bill is having concurrent jurisdiction and empower Centre to protect country's sovereignty and integrity. State Governments shall extend all assistance to National Investigation Agency for better investigation of terror related offences. This present Bill empowers the Central Government to establish Special Court to try all offences relating to terror. It is welcomable step that the accused is not entitled to get bail upto 180 days. Moreover, judicial officer sitting in Special Court is having power to dismiss the bail application if *prima facie* case is made out against the accused. This provision will certainly help the police for better investigation. On considering all aspects this Bill is a welcomable step taken by our UPA Government.

This Bill paves way to dispose the cases against terrorists in a speedy manner. Control the Terrorist activities in this Country is two fold. One is to prevent the terrorist attacks, another is to punish the terrorists. To prevent the terrorists activities, we have to strengthen the Intelligence Agencies. Police Authorities have to react without delay after receiving the information from Intelligence Agencies about terrorist activities then only we can prevent the crimes. Our Govt, has to take steps to improve the standard of Intelligence people and all facilities to be provided to them.

In the same manner our Hon'ble Home Minister introduced another important Bill to amend Unlawful Activities (Prevention) Act, 1967 to prevent the terrorist activities. After Independence Congress is the only Party lost its great leaders like Mahatmaji, Indira Gandhi and Rajivji for terrorism. Congress can only control Terrorism in this country. An important provision in this amendment Bill is introduction of new Section-17 to give punishment for persons those who are raising fund for terrorist acts. According to this amendment Bill foreign nationals those who involved in terrorist activities can't get bail till disposal of the case. Furthermore burden of proof is vested with accused that he has to prove that he is an innocent. These are good proposals. Certainly both these Acts will curtail the terrorist activities in this country.

Once again I am thanking our Home Minister. I am welcoming the both Bills and concluding my speech.

SHRI K. FRANCIS GEORGE (IDUKKI): We have been discussing two important legislations for the last several hours. Almost, all sections have supported, of course, with certain reservations. Maybe, it is that we have reached a point in the life of our nation where we have to have a law or a piece of legislation which, probably, somewhat goes against our federal legacy. In this Unlawful Activities (Prevention) Amendment Bill, I would like to exactly quote what Mr. Owaisi, my hon. friend, who spoke just before me, has quoted here. In this Bill, there is a definition about terrorist act, which, of course, is an amendment. But in the original NSG Act, the National Security Guards Act, 1986, Section 2, clause 'y', the word, 'terrorist' has been defined. I would also like to repeat that.

Clause 'y' says that:

> "Terrorist means any person with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the peopleâ€¦".

It goes like that. Why was this portion omitted? When this terrorist act or terrorist, who is mentioned in this amendment Bill, why was this portion omitted? We are facing that kind of crisis also in the country. Terrorism does not mean that people have to come from outside or people have to come from Pakistan. We have our own versions of terrorists here.

What is even now happening in Orissa? Now there is a talk of withdrawing the Central Forces from Orissa. People are just cowering in fear there. I would request the Government and the hon. Home Minister not to do that. Unless and until we have full peace and harmony in Orissa, do not withdraw the Central Forces. It is because then what will happen to those people? As of now, everything has been destroyed in Orissa. Everything that belongs to a minority community, the Christian community, in the

country has been destroyed. All the institutions, churchesâ€"everything has been destroyed. Nothing has been done by the state Govt. to help the affected people. No compensation has been given. This happened on 24th December, 2007 and also this year from August onwards.

Now this 24th December, 2008, they have called for a *bandh*, that is, on the eve of Christmas. Why the Sangh Parivar elements have called for a *bandh?* What is the Central Government doing about it? We have nothing to expect from the State Government of Shri Naveen Patnaik. This kind of terrorism is there. ...(*Interruptions*)

SHRI TATHAGATA SATPATHY (DHENKANAL): It is a working day.

MR. DEPUTY-SPEAKER: Silence please. Do not disturb him, please.

SHRI K. FRANCIS GEORGE : You wanted to say it is a working day. It is a holiday. ...(*Interruptions*) Mr. Tathagata Satpathy, how can you say that?...(*Interruptions*) Your mother will be turning in her grave when you make this kind of comments...(*Interruptions*) I am sorry.

MR. DEPUTY-SPEAKER: Mr. Francis George, please address the Chair.

...(*Interruptions*)

MR. DEPUTY-SPEAKER: Mr. Francis George, you only address the Chair. Do not waste your time.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : My friend, Mr. Kharabela Swain made sweeping allegations here against two States of this country. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please do not disturb him.

SHRI K. FRANCIS GEORGE : He said about Kerala and West Bengal. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will go on record.

*(Interruptions) â€¡**

MR. DEPUTY-SPEAKER: Please sit down.

...(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will go on record.

*(Interruptions) â€¡**

* Not recorded.

MR. DEPUTY-SPEAKER: Your turn will be coming next. Please sit down.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : How can you say that? It is a shame. ...(*Interruptions*) You should not be talking like this.

MR. DEPUTY-SPEAKER: Please sit down.

SHRI K. FRANCIS GEORGE : Let me complete.

MR. DEPUTY-SPEAKER: Let him speak.

...(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing is going on record.

*(Interruptions) â€¡**

DR. RAM CHANDRA DOME (BIRBHUM): How can you do that? ...(*Interruptions*)

ADV. SURESH KURUP (KOTTAYAM): Sir, how can he say like that? ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Nothing else should be recorded.

*(Interruptions) â€¦**

MR. DEPUTY-SPEAKER : Mr. Deo, you are the next speaker.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : Sir, I do not understand. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Nothing is going on record.

*(Interruptions) â€¦**

SHRI K. FRANCIS GEORGE: Sir, is it a good message to rebuild those churches and institutions which were affected? ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Whatever he has said, that is not recorded.

*(Interruptions) â€¦**

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* Not recorded.

SHRI K. FRANCIS GEORGE : Sir, it is a shame. You force your Government, you force your Party to withdraw that. ...(*Interruptions*) Sir, I will only request the hon. Minister of Home Affairs and the Government to see that these kinds of divisive forces are also dealt with properly in this Amendment Bill.

...(*Interruptions*)

MR. DEPUTY-SPEAKER : Please conclude your speech.

SHRI K. FRANCIS GEORGE : Sir, I am concluding. I would request the Government to include in the definition of terrorist act .....(*Interruptions*) Mr. Mahtab, the whole country is watching. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : You are requested to conclude your speech.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : Yes, Sir. I am concluding.

MR. DEPUTY-SPEAKER : You can lay on the Table of the House the rest of your speech.

SHRI K. FRANCIS GEORGE : Sir, I have to conclude. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Nothing is going on record. You are the next speaker.

*(Interruptions) â€¦**

MR. DEPUTY-SPEAKER : Please sit down.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : Sir, it is a fact. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Mr. Mahtab, please sit down.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : Sir, if I have said something wrong, I stand corrected. The hon. Minister of Agriculture has led a

delegation there. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Please sit down.

...(*Interruptions*)

* Not recorded.

SHRI K. FRANCIS GEORGE : Sir, let me complete. ...(*Interruptions*)

Sir, I am concluding. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Whatever has been said without my permission, that should not be recorded.

*(Interruptions) â€¦ **

SHRI K. FRANCIS GEORGE : Sir, under the leadership of Shri Sharad Pawar a delegation of Ministers went to Orissa. Let Shri Sharad Pawar say what he has seen. If I am wrong, I will correct myself. I will apologise to the House if I have said anything wrong about Orissa. Let Shri Sharad Pawar say what he has seen there. He has gone there. He has led a delegation of Central Ministers there. ...(*Interruptions*) Whatever it is, under the definition of Terrorist Act, this portion also has to be included.

MR. DEPUTY-SPEAKER : Please conclude now.

SHRI K. FRANCIS GEORGE : Yes, Sir. Otherwise, there is no point in having a law like this. We are all supporting this law. But there is no point in having a law like this, without a terrorist being properly defended.

Also, under the National Investigation Agency, there is a provision that starting from the Sub-Inspector of Police up to the highest level, if a situation warrants and if the Central Government *suo motu* intervenes in a State, may be in a situation of terrorist strike or something like that, the officers appointed by the National Investigation Agency takeover the whole setup. If that is so, I think it has got far-reaching ramifications.

MR. DEPUTY-SPEAKER : Thank you.

SHRI K. FRANCIS GEORGE : Sir, let me conclude. I hope these things will be addressed to. It is because it is not always Dr. Manmohan Singh or Shri P. Chidambaram will be in power. I shudder at the thought of Shri Swain's Party coming to power and then taking actions under this law. ...(*Interruptions*)

* Not recorded.

SHRI KHARABELA SWAIN : You go to America and you will be very happy. It is a rich country. ...(*Interruptions*)

SHRI K. FRANCIS GEORGE : My friend, we are Indians more than you. ...(*Interruptions*) We have laid down our lives for India. ...(*Interruptions*) We are born here and we will live here. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Mr. George, you are supposed to address the Chair. Please conclude now.

...(*Interruptions*)

SHRI K. FRANCIS GEORGE : We have been part of this country and we will always work for India. The way you made an allegation against Kerala is not correct. ...(*Interruptions*)

MR. DEPUTY-SPEAKER : Nothing should be recorded.

*(Interruptions) â€¦ **

MR. DEPUTY-SPEAKER : Whosoever speaks without my permission, his statement should not be recorded.

*(Interruptions) â€¦ **

SHRI K. FRANCIS GEORGE (IDUKKI): How can you say that Kerala is a .. * Under what evidence did you make such a statement? You should withdraw that statement. ...(*Interruptions*) *â€¦'**

How can he say that?

MR. DEPUTY-SPEAKER : Mr. George, you should address the Chair and not any individuals.

SHRI K. FRANCIS GEORGE : Yes, Sir. It is an unfortunate comment by him. I would request that the Government should think of including that portion of the definition in this Unlawful Activities (Prevention) Amendment Bill. [k82]

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* Not recorded.

*SHRI FRANCIS FANTHOME (NOMINATED) : Sir, I rise to support the National Investigation Agency Bill, 2008 and the Unlawful Activities (Prevention) Amendment Bill, 2008 moved by the Honourable Home Minister.

These Bills will assist to investigate, prosecute and secure the integrity and security of the country, safeguard national and international interests established by conventions and resolutions adopted at international forums.

Sir, in terms of the position the country has in the international community of nations, it is important that the legal structure enables the prosecution of people who attack the sovereignty of the nation and interfere with its secular social fabric.

There is apparently a prevailing situation that by design desires to destabilize the country, create social disharmony and impair the nation's economic growth. The Bills are designed to strengthen the legal and investigation system to address this challenge.

India's strength over the years has been the secure social fabric nurtured over the past two hundred years by the Indian National Congress. The multilined tapestry has been consequent to the vision of the leaders of the freedom movement who gave the nation "unity in diversity".

The events in the recent past in the city of Mumbai have let to a unique sensitization of the people in the country which has been the stimulus in setting the base for these Bills.

While these Bills will consolidate the legal and investigation practices but will not alter the prevailing sense of insecurity in people, attitude of enforcement agencies, lack of dependable intelligence information and alienation from the mainstream of a large section of the minorities.

Sir, there is need to create a sense of security amongst all communities. Sir, with these words I support the provisions of two Bills.

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* Speech was laid on the Table.

*DR. THOKCHOM MEINYA (INNER MANIPUR) : Sir, I rise to support the two important Bills (i) The National Investigation Agency Bill, 208 and (2) The Unlawful Activities (Prevention) Amendment Bill 2008.

Sir, to fight Terror rather terrorism which is now waging war against humanity, the present Bill – The National Investigation Agency Bill, 2008 is the best of its kind. We know very well that CBI is over-burdened by many cases. As such the delivery of Justice is not adequate since the time of investigation takes inordinately long. Thus we have "justice delayed, justice denied".

The present Act makes a sincere attempt to adequately investigate incidents to the best satisfaction of all concerned. Why the regional investigations are never adequate? This is partly for want of infrastructure/mechanism. Thus the combined efforts of the Union Government and the State Governments as provided in the present Bill will go a long way for the prevention of Terrorism in the country and the world.

Sir, this Bill will definitely give a better result. We have to attempt for the best. We will succeed.

Sir, the unlawful Activities (Prevention) Amendment Bill, 2008 is one such Bill which works effectively after the repeal of the infamous POTA. I support the Amendment. More amendments will be necessary in future also.

While supporting this Bill, I respectfully seek the indulgence of this august House to inform that this Act may please be used with utmost care and caution. Why I say so is simply because my State Manipur – the people of Manipur has had some bitter experiences with the present AFSPA. The only cause of concern is the use of army for civil administration. This should not happen. There has been enough abuses of power under this infamous draconian Act like AFSPA. I again draw the attention of the Hon'ble Home Minister to the fact that Justice Jeevan Reddy

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* The speech was laid on the Table.

Committee has recommended the repeal of AFSPA. The recommendations are lying with the Union Government. The people of Manipur for that matter the people of the NE States and J&K are wondering when POTA can be repealed why not AFSPA.

Sir these two Bills are complementary to one another. I would say that these Bills are timely and immediately required. I would very sincerely seek the cooperation of all my friends and the other side of the House to kindly support these Bill so that the fight of Terrorism comes to a decisive conclusion. Let us unite to fight this menace of terrorism.

Sir, once again, I support these two Bills and my best wishes to the new able Hon'ble Home Minister.

SHRI BIKRAM KESHARI DEO (KALAHANDI): Mr. Deputy-Speaker, Sir, before I start, I would like to say that when the UPA Government came, POTA was already there and it was repealed by UPA because it said that Unlawful Activities (Prevention) Act was sufficient to deal with terrorism. Now, they have again come with a Bill to amend the Unlawful Activities (Prevention) Act and say that it will give more teeth to the law and that POTA did not have teeth to deal with terrorism.

19.21 hrs (Mr. Speaker *in the Chair*)

After the POTA was repealed and only Unlawful Activities (Prevention) Act was in place, a lot of terrorist acts have taken place – the bomb blast, the train blast, then this Mumbai episode which we saw and increase in internal insurgency also. Therefore, we welcome both these Bills.

We hope that India will not be subjected to external or internal terrorism in future. Can he assure the House? He says that now a lot of teeth are given to it, but it has to be implemented properly. He says that the responsibility of the State is also there, but I would like to state here that many of the States are ill-equipped to meet insurgency or to counter insurgency. So, they should be properly equipped with latest arms and ammunition and should know the latest battlefield techniques to fight them. Here, during the passage of this Bill, I would like to give the message that let us terrorise terrorists and not embolden them so that they cannot again become insurgents.

Sir, it is seen that lot of fundamentalist activities have taken place in the country, not only in our country but outside also which led to 9/11 episode. After 9/11 episode, Patriotic Act was promulgated in America. It was passed in one day. But I am sorry to state that when we are discussing this Bill here, we are squabbling on partisan attitude. Today, Shri Thomas of Kerala made an allegation that the Christians were harassed in Orissa. Probably, it could be a backlash of the killing of holy Hindu saint or monk, but the Orissa Government has taken strong steps to rebuild faith among the Christians by building the churches and by setting up a judicial inquiry by a senior High Court judge. They are also giving a lot of *ex gratia* to the people affected in Orissa, which only comprises about one per cent of the population of Orissa. So, he cannot just make the allegations directly. Even I also start making an allegation that fundamentalism is spoiling the country. It may be Muslim fundamentalism or Hindu fundamentalism or Christian fundamentalism.

Sir, I am a Hindu as I am born in a Hindu family and I uphold the tenets of Hinduism which has various cultures and various aspects. With that, I would like to say that terrorism has already started knocking at the doors. After Independence, right from the time of partition, Jammu and Kashmir has been subjected to cross-border terrorism and more than 40,000 people have lost their lives, but the developed nations never believed that terrorism persisted in the country. To fight that out, our party has been telling the Government, which ruled this country the most, to counter it, but they could not counter it. Also, the Legislative Assembly of Jammu and Kashmir was blown and terrorism is still continuing there. All our efforts regarding developing or reconstructing Jammu and Kashmir are fine, but at the same time, I would submit that the Americans or the western world woke up to the menace of terrorism only after 9/11 episode. Probably, we have woken up after 26/11 episode. I hope that in future, in

one word, every civilian and every voter would fight terrorism. I thank the media for having shown to the whole country and the whole world this 3-day turmoil and exchange of fire between our troops and terrorists.[SS83]

But it is a sad factor that today 10 terrorists could hold the whole country to ransom. This shows how porous our borders and coastline are for the terrorists. Therefore, it is my request to the Government to strengthen the coastlines, and strengthen the Navy. The Navy has always been demanding that the Indian Navy is much below par from being modernized. It should be modernized further, and the Coast Guard should also be modernized further.

In consequence of this, I support the Bill because I hope that it will stop terror activities sincerely and seriously, and terrorise the terrorists and not embolden them. They have been emboldened. Why are you not hanging Afzal who attacked our biggest Panchayat, namely, the Parliament? You have apprehended him, but have not hanged him. Therefore, this emboldens them. The Acts should be such that the terrorists should be done away with. Thank you.

MR. SPEAKER: The next speaker is Shri Shailendra Kumar. Do you want to speak on this issue?

श्री शैलेन्द्र कुमार (चायल) : माननीय अध्यक्ष महोदय, आपने मुझे इस बिल पर बोलने का मौका दिया, इसके लिए आपका बहुत-बहुत धन्यवाद। अभी कई सम्माननीय सदस्यों ने इस बिल पर अपनी बात रखी है। जहां तक पोटा का सवाल है, तमाम सम्माननीय सदस्यों ने दोनों तरफ से पोटा के बारे में बहुत विस्तार से अपनी बातें रखी हैं। यह बात सत्य है कि पोटा का जो दुरुपयोग हुआ था, उसकी सबसे जीती-जागती मिसाल अगर कहीं मिलती है, तो वह उत्तर प्रदेश में मिलती है। हमारे वहां के एक जन-प्रतिनिधि के ऊपर पोटा लगाया गया, उसके बूढ़े पिता के ऊपर पोटा लगाया गया और इसका दुरुपयोग हुआ। हमारा कहना है कि तमाम जितने भी कानून बीच में बने हैं, वे इसलिए बने हैं, क्योंकि समाज के अंदर जो आतंक फैला हुआ है, उससे हम कैसे निजात पा सकते हैं, उस पर हम कैसे काबू पा सकते हैं। अभी इसमें तमाम संशोधन भी आये हैं। मुम्बई में आतंकवादी घटना के बाद यह आम चर्चा थी कि आतंकवाद को खत्म करने के लिए एक संघीय जांच एजेंसी बनायी जाये, जिससे इस आतंकवाद पर रोक लगायी जा सके। जब यह कहना शुरू हुआ कि संघीय जांच एजेंसी बनायी जाये, तो उस पर कई राज्यों के अपने विचार और सुझाव आये। जैसा सदन में एक राय से तमाम सदस्यों ने इस बिल का स्वागत किया है, सबने बढ़-चढ़कर इसमें हिस्सा लिया और आतंकवाद को पूरी तरीके से सफाया करने के लिए अपनी बात रखी है, वहीं पर कुछ राज्यों को शक हुआ कि कहीं ऐसा न हो कि हमारी पावर्स पर कुछ कंट्रोल लगे, भारत सरकार उस पर कुछ कंट्रोल करे या हमारे कंधों में, हमारी शक्तियों में कोई कमी आये, इस पुकार की जो एक आम चर्चा थी, उनको भय था, वह भी दूर हुआ है। हिन्दुस्तान में ज्यादातर राज्य सरकारों ने इसको सपोर्ट ही किया है। इसलिए यहां जो बिल आया है, मैं इसका पूरी तरह से स्वागत करता हूं। अभी हमारे कुछ सम्मानीय सदस्यों ने राज्यों को लेकर टिप्पणी की हैं। अब राज्यों की अपनी-अपनी परिस्थितियां होती हैं। वहां स्थानीय स्तर पर तमाम झगड़े हैं, जिन्हें वहां की सरकारें खुद दूर कर सकती हैं।

मैं इस बिल का तहे दिल से स्वागत करता हूं, लेकिन इतना कहना चाहूंगा कि इस बिल का दुरुपयोग न होने पाये। इसकी मौनीटरिंग के लिए, इसकी जांच के लिए हमारे पास अलग से कोई समिति हो। अगर इस बिल का किसी पर दुरुपयोग नहीं होना चाहिए, खासकर राजनीति दुरुपयोग नहीं होना चाहिए। एक वर्ग पर नहीं होना चाहिए, किसी धर्म-मजहब को लेकर नहीं होना चाहिए। जो देश को कमजोर करने वाली शक्तियां हैं, अगर उन पर इसे लागू करने की बात आती है, तो इसे लागू करना चाहिए।

इन्हीं बातों के साथ मैं इस बिल का पुरजोर तरीके से समर्थन करते हुए अपनी बात समाप्त करता हूं।

MR. SPEAKER: Thank you, Mr. Shailendra Kumar. Hon. Members, I have got names of seven more hon. Members who wish to speak on this issue.[r84]

If hon. Members agree to restrict their speeches within four minutes, I will call them; otherwise, sorry.

Shri Ram Kripal Yadav, your leader is very much in your favour.

*SHRI VIJAY BAHUGUNA (TEHRI GARHWAL) : Respected Sir, The recent spurt of cross-broader engineered terrorist attacks in various parts of our country is a serious threat to our security, sovereignty, and pride.

Sir, irrespective of our religion, race, or region today the entire nation is united as never before and the UPA Government is determined to frustrate the nefarious design of terrorist and militant groups to disturb our growth, peace and tranquility.

I congratulate the Honourable Home Minister for introducing these Bills to ensure **Effective Investigation, Speedy Trial and Due Punishment'** to the accused persons.

The Bills strike a just and fair balance between concerns of human rights and national security.

The National Investigating Agency is necessary for the effective coordination between the Centre and the States to bring the culprits to task.

I request the Hon. Minister to ensure that the police personnels associated with this investigating agency will have due regard to the cardinal principles of criminal jurisprudence that a person is a innocent till proved guilty and that a guilty person may be acquitted and no innocent should be convicted. It is therefore necessary that the police reforms are implemented. In the proposed Bills, there are sufficient statutory safeguards to ensure that there is no abuse of the provisions of the Act as happened earlier in cases pertaining to POTA.

The Amendment in Section 167 Cr. Pc for extending time to 180 days to complete investigation is necessary as the terrorist attacks are as a result of conspiracies hatched elsewhere and there are elements who provide the logistic support for the terrorist attacks.

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* The speech was laid on the Table.

There is judicial review over these investigations and it was necessary to put stringent conditions in matters relating to bail of foreign nationals indulging in terrorist acts.

By incorporating Section 17, 18 & 51-A the terrorist groups and associations have been brought within the ambit of the Unlawful Activities Act and there is a provision to confiscate and seize the assets and properties of the terrorists groups and associations. The Section 45 of the Act provides for a sanction for prosecution by the Central Government or the State Government after an independent review of the evidence gathered in the course of investigation.

It is unfortunate that for narrow political gains the minorities in this country especially Muslims and Christians are being targeted.

Secularism was the essence of our freedom struggle and is the basic structure of our Constitution. We should not forget that after partition our Muslim brethren chose India as their motherland and have been contributing to the development of the country.

The Bills would go a long way to address the menace of terrorism.

SHRI RAM KRIPAL YADAV (PATNA): I think you are also in my favour, thank you very much.

महोदय, मैं गृहमंत्री जी के प्रति आभार व्यक्त करता हूं और उससे भी पहले यूपीए की माननीय चेयरमैन, श्रीमती सोनिया गांधी जी के प्रति आभार व्यक्त करता हूं कि देश की वर्तमान स्थिति को देखते हुए, आतंकवाद से लड़ने के लिए वे एक सख्त कानून लाए हैं। यह कानून कमिटमेंट के साथ लाए हैं। मैं समझता हूं कि इसे पूरा करने का काम यूपीए सरकार करेगी और आतंकवाद समाप्त होगा।

महोदय, जब चर्चा हो रही थी, प्रतिपक्ष के माननीय नेता श्री लालकृष्ण आडवाणी जी बोल रहे थे, तो मुझे एहसास हुआ कि वह दलगत भावनाओं से ऊपर उठकर अपनी बात रखेंगें, लेकिन मैं समझता हूं कि कहीं न कहीं उनके मन में खोट थी जिसकी वजह से इसको राजनीतिक परिवेश देने की मंशा अपने अंदर लाकर उन्होंने इस बिल को कमजोर करने की कोशिश की है। आज देश के सामने आतंवाद एक चुनौती है और हम सभी सदस्यों से पूरा देश यह आशा करता है कि हम लोग एक होकर आतंकवाद जैसी चुनौती का मुकाबला करने का काम करें और संकीर्ण एवं दलगत भावनाओं से ऊपर उठकर, एक होकर देश के सामने जाएं।

हमारा इतिहास रहा है कि देश की आजादी के बाद से अब तक जो भी समस्याएं आई हैं, हमने एक होकर उनका मुकाबला करने का काम किया है। इसी तरह आतंकवाद की चुनौती का मुकाबला करने के लिए हमें दृढ़ संकल्प लेना चाहिए। आज विपक्ष, खासकर बीजेपी के हमारे साथियों के मन में कहीं न कहीं खोट है। मैं माननीय मंत्री जी का आभार व्यक्त करता हूं कि वह आतंकवाद से निपटने के लिए यह कानून लाए हैं, लेकिन मैं यह कहना चाहूंगा कि यह कम्पोजिट कानून नहीं है, इसमें खामियां हैं। अगर हम आतंकवाद की बात करते हैं तो देश में जितनी परेशानी आतंकवाद से है, उतनी ही परेशानी सपूदायवाद से भी है। मैं, हमारी पार्टी और हमारे नेता श्री लालू पूसाद जी यह मानते हैं कि आतंकवाद और सपूदायवाद, दोनों जुड़वा बहनें हैं और देश से आतंकवाद तब तक खत्म नहीं होगा जब तक इस देश से सपूदायवाद खत्म नहीं होगा। इसलिए मैं चाहूंगा कि फरवरी में पार्लियामेंट का सेशन होने वाला है, आपने जो कानून बनाया है, उस पर विस्तार से चर्चा करें, डिबेट करें। जब हम आतंकवाद को समाप्त करने के लिए कानून बना रहे हैं, तो इसी तरह से सपूदायवाद को समाप्त करने के लिए भी देश में एक अलग से कानून होने पर ही मैं समझता हूं कि देश शान्तिपूर्ण ढंग से रह सकता है। जब तक देश में सपूदायवाद रहेगा, आतंकवाद भी बना रहेगा। आतंकवाद की बुनियाद बाबरी मस्जिद ढहने के बाद तैयार हुई, आतंकवाद की शुरूआत गुजरात के दंगों, जिसमें निर्दोष लोग मारे गए, के बाद हुई। बाबरी मस्जिद ढहने के पहले हमारे देश में उग्रवाद था, आंतरिक परेशानी थी। मैं इस बात को मानता हूं कि पंजाब और जम्मू-कश्मीर राज्यों में परेशानी हुई, लेकिन हमने उसका सख्ती से मुकाबला किया क्योंकि हमारे पास उसके लिए इच्छाशक्ति है। हम आतंकवाद को दो धाराओं में नहीं बांट सकते हैं। हेमंत करकरे, एटीएस के पूमुख के रूप में जब किसी संगठन को कष्ट में लाने का काम करता है, अभिनव अभियान के लोगों को पकड़ने का काम करता है, तो लोगों को परेशानी हो जाती है। भारतीय जनता पार्टी और उसके सहयोगी दलों को परेशानी होने लगती है। हेमंत करकरे के खिलाफ वे महाराष्ट्र बंद का आह्वान करते हैं। हमारा सिर उस समय शर्म से झुक जाता है, जब हेमंत करकरे और उनके तीन बहादुर जांबाज साथी, जिनको हम सैल्यूट करना चाहते हैं, उन्होंने अपनी जान न्यौछावर करके इस देश की गरिमा को बढ़ाने का काम किया है। लेकिन उनके मरने के बाद जश्न होता है। वे कौन लोग हैं जो इस जश्न में शरीक हुए? माननीय मंत्री जी, हम जानना चाहते हैं, इस बात का भी पर्दाफाश हो कि वे कौन लोग हैं, जो हेमंत करकरे की मौत के बाद झूठा आंसू बहाने का काम कर रहे हैं।[R85] उन लोगों के चेहरों से भी नकाब उठानी चाहिए। आज हेमंत करकरे होते, तो जिस तरह से आगे की कार्रवाई की जा रही थी, उससे दूध का दूध और पानी का पानी हो गया होता। मैं सीधे संघ परिवार पर चार्ज लगाना चाहता हूं कि उन्होंने साध्वी पूज्ञा ठाकुर को पोटेक्ट करने का काम किया। एक की गिरफ्तारी की आप मांग करें और दूसरे की गिरफ्तारी पर आंदोलन करें, तो ये दो धाराएं नहीं चल सकतीं।

मैं सीधे संघ परिवार के लोगों पर चार्ज लगाता हूं, जिन्होंने पूज्ञा ठाकुर की गिरफ्तारी के बाद आंदोलन करने का काम किया था। सारा देश और हम आपसे जानना चाहते हैं कि किसी खास जाति या मजहब के खिलाफ आप जहर घोलेंगे तो फिर हम देश में शांति का वातावरण पैदा नहीं कर सकते। इसलिए सबको समान रूप से देखना पड़ेगा। हिन्दू, मुस्लिम, सिख, ईसाई, चारों हमारे देश के स्तम्भ हैं। इन्हें मजबूत करने के लिए हम सबको एकजुट होना पड़ेगा और किसी खास धर्म के पूति नफरत की भावना मन में नहीं रखनी होगी। अगर हम नफरत की भावना किसी खास समुदाय या मजहब के पूति रखेंगे तो देश में अमन कायम रखने में मुश्किल होगी। आज देश बहुत बड़े संकट से गुजर रहा है।

पूति पक्ष के नेता माननीय लाल कृष्ण आडवाणी जी बता रहे थे, मैं उनसे सहमत हूं।

अध्यक्ष महोदय: कृपया सहयोग करें और अपनी बात समाप्त करें।

श्री राम कृपाल यादव : वह बता रहे थे कि राजनेताओं के खिलाफ देश में एक वातावरण बना, बड़े पैमाने पर देश में लोगों के मन में राजनेताओं के पूति असंतोष पूकट हुआ। मैं कहना चाहता हूं कि हमारे यहां आईबी है, सीबीआई है, रॉ है और अन्य कई एजेंसीज हैं, क्या इनके ऊपर कोई उत्तरदायित्व फिक्स नहीं किया जाएगा कि इनकी जो जिम्मेदारी थी, उसका इन्होंने पालन किया या नहीं। क्या इनके जिम्मेदार अधिकारियों पर जवाबदेही फिक्स नहीं की जाएगी कि इनका जो कर्तव्य था, उसका पालन इन्होंने किया या नहीं। इसलिए यह जो राजनेताओं के खिलाफ षडयंत्र हो रहा है।

अध्यक्ष महोदय: कृपया अपनी बात समाप्त करें।

श्री राम कृपाल यादव: मैं दो मिनट में अपनी बात समाप्त कर दूंगा।

अध्यक्ष महोदय: दो मिनट और नहीं दिए जा सकते।

श्री राम कृपाल यादव : मैं शीघ्र ही अपनी बात समाप्त कर रहा हूं। देश की आजादी के लिए न जाने कितने लोगों ने शहादत दी और न जाने कितनी ही मां-बहनों का सिंदूर मिट गया था, तब जाकर हमें आजादी मिली और देश में लोकतांत्रिक व्यवस्था कायम हुई। वे बुद्धिजीवी जो लोक सभा में नहीं आ सकते, उन लोगों का यह षडयंत्र है कि हमारी लोकतांत्रिक व्यवस्था को खत्म करने का काम वे करें और इसीलिए उनके द्वारा देश में सैनिक शासन लाने की बात हो रही है।

अध्यक्ष महोदय: बहुत हो गया, थोड़ी स्पीच आगे के लिए भी रख लें।

श्री राम कृपाल यादव : मैं अपनी बात समाप्त ही कर रहा हूं। यह बहुत ही महत्वपूर्ण मामला है। देश के सामने और हम सबके सामने समस्या है। हमारी और आपकी कुर्सी खतरे में है। जिस तरह का वातावरण पैदा किया जा रहा है कुछ बुद्धिजीवियों द्वारा यह सही नहीं है।

अध्यक्ष महोदय: उनकी छोड़िए, आप अपनी बात कहें।

श्री राम कृपाल यादव : जिन सैन्य कर्मियों ने मुम्बई घटना में अपनी जान दी, मैं उन्हें सेल्यूट करता हूं। कुछ लोग कहते हैं कि देश एक नहीं है। मैं कहना चाहता हूं कि जो आतंकवादी मारे गए, मुस्लिम भाइयों ने और उनके मौलानाओं ने एक स्वर से कहा कि हम उन्हें यहां दफन करने के लिए एक इंच जमीन भी नहीं देंगे। क्या सेक्युलरिज्म नहीं है, देश की आजादी में जितने लोगों ने कुर्बानी देने का काम किया, उससे कम कुर्बानी अल्पसंख्यक समुदाय ने नहीं दी। उनका भी बड़ा योगदान रहा है। हर मुसलमान आतंकवादी हो जाएगा, विद्रोही हो जाएगा, ऐसा मानना उचित नहीं है। इसलिए देश को एक रखना है तो सबको समान रूप से देखना पड़ेगा।

MR. SPEAKER: Now you have to conclude. Nothing will go on record now.

*(Interruptions) â€¦**

* Not recorded.

MR. SPEAKER: I am very sorry to cut short your speech. But I have unpleasant duties to perform.

मानव संसाधन विकास मंत्रालय में राज्य मंत्री (श्री मोहम्मद अली अशरफ़ फ़ातमी): सबसे अच्छा बोले हैं।

अध्यक्ष महोदय: मूड ठीक रहने से अच्छा बोलते हैं। कभी-कभी मूड ठीक नहीं होता।[R86]

मोहम्मद सलीम : अध्यक्ष जी, आपकी अनुमति हो तो मैं शुरु करुं?

अध्यक्ष महोदय : हां, बोलिये।

मोहम्मद सलीम : सर, ये दोनों विधेयक बहुत महत्वपूर्ण हैं। माननीय मंत्री जी और विपक्ष के नेता ने भी यह बात कही है। संसद में अगर हम कोई महत्वपूर्ण विधेयक पारित करते हैं, सरकार ने खुद अपने स्टेटमेंट और ऑबजैक्ट में कहा है कि "डयू कंसीडरेशन" और फिर दो बिल लाने की कोशिश की है। लेकिन हम इतने लाइटनिंग स्पीड में इस तरह के विधेयक को पारित करते हैं, यह हमारे लिए, संसद के लिए और लोकतांत्रिक प्रक्रिया के लिए ठीक नहीं है। मुम्बई में जो आतंकवादी हमले हुए, पूरा सदन, पूरा राष्ट्र एक साथ उठकर खड़ा हुआ। लेकिन सरकार क्या ऐसे समय का इंतजार करती है जब कुछ ऐसे हादसे हों और सरकार हरकत में आये। आज की बहस से एक निचोड़ तो निकला कि फरवरी में एक सत्र होगा। जब सत्र होगा तो फिर स्टेंडिंग कमेटी का जो रोल है और जब उसे सभी सराहते हैं, आप यह कहते हैं कि चार हफ्ते के लिए, दो हफ्ते के लिए कमेटी बनती है और आप उस कमेटी को इसे दे दो तो जितना सरकार इसे महत्व दे रही है, संसद भी उतना ही महत्व देती और उसके बाद दो, चार, पांच हफ्ते के अंदर ...(व्यवधान)

MR. SPEAKER: I thought there was unanimous demand from all sections of the House during the unanimous resolution that the quickest the law comes, the better. Apart from the fact that there was no certainty of the next Session, I never thought that this question would at all be raised. I thought, people would blame me if I send it to the Standing Committee.

MD. SALIM : No, it is not a blame game, Sir.

MR. SPEAKER: Now, the point is taken that in February, there will be a Session. After all, you are making a reflection one me, on the Chair because the Chair sends it to the Standing Committee. It is not the Government job at all. I mean, it cannot control me on this.

MD. SALIM : I do not want my debate to be miscarried.

MR. SPEAKER: Rather, you may say it, you could have discussed tomorrow.

MD. SALIM: He also said that there was uncertainty whether there will be Session or not. The hon. Minister, Shri Kapil Sibal said, on 22nd February – it is so specific. सर, मैं यह इसलिए कह रहा हूं कि such laws throughout the world, and in this country, in particular, जितने यूज हुए हैं उससे ज्यादा एब्यूज हुए हैं। माननीय कपिल सिब्बल जी ने खुद अपने भाषण में कहा है कि किस तरह से ये एब्यूज हुए हैं। अगर आप देखें कि जो लॉ इनफोर्सिंग एजेंसीज हैं, अथॉरिटीज हैं हमेशा कहती हैं कि हमें स्पेशल एक्ट चाहिए। कहीं भी कोई घटना हो जाए तो वे मजबूरी दिखाती हैं कि हमारे पास ये हथियार नहीं है। लेकिन मुल्क में यह नहीं है कि हमारे पास कानून नहीं हैं। समस्या इस बात की है कि उसकी इम्प्लीमेंटेशन, उसकी इंफोर्समेंट ठीक नहीं है। सर, कोई गलत मैसेज नहीं जाना चाहिए। संसद तथा राजनीति के विरोध में लोग इसलिए खड़े होते हैं कि हम कोई ऐसा कानून पारित कर रहे हैं जिससे हम कानून से आतंकवाद को रोक दें। कानून से आतंकवाद नहीं रुकता। कानून बना है पनिश करने और कंविक्शन के लिए या इंवैस्टीगेशन के लिए। इसका मतलब है कि आतंकवादी हमले होंगे, उसके बाद हम आतंकियों को पकड़ पाएं, उन्हें सजा दिला पाएं, वे छूटकर न भागे, इसके लिए कोशिश है। It is not a preventive thing. लेकिन हमारे मुल्क में प्रीवेंटिव डिटेंशन के लिए एक से एक कानून बने। सर, आप तो कानून के माहिर हैं। पीडी एक्ट, डिफेंस ऑफ इंडिया एक्ट, नासा, मीसा, पोटा, टाडा एक्ट आदि। स्पेशल एक्ट्स की कमी नहीं है। आजाद भारत में 60 साल के अंदर 5-6 साल छोड़ देने से भी, कभी न कभी, किसी न किसी बहाने, किसी न किसी नाम से, कोई न कोई स्पेशल कानून है। हम मान लेते हैं कि स्पेशल कानून बनाना पड़ेगा। आज तो आतंकवाद का स्पेशल हमला है। इससे निपटने के लिए सब लोगों ने कहा कि हम सरकार को मदद देने के लिए तैयार हैं। सरकार को यदि कोई और भी साधन जुटाने हैं और भी कोई इकदामात लेने हैं अपनी इंटेलिजेंस एजेंसी को चुस्त-दुरुस्त करने के लिए तो सब लोग तैयार हैं। जो स्मगलिंग हो रही है और जिस तरह से पोरस बार्डर से हथियार आ रहे हैं या आतंकी आ रहे हैं या जो करप्शन है इस सिस्टम के अंदर, उसे अगर हम दूर नहीं कर पाएंगे तो कानून चाहे हम जितनी नेक-नीयती से बनाएं, अगर व्यवहार सही ढंग से नहीं होता है तो हम सफल नहीं होंगे। हमने स्पैसिफिक अमेंडमेंट्स दिये हैं लेकिन एक अमेंडमेंट है जो सर्कूलेट नहीं हुआ है, इसलिए हमें यह बताना पड़ेगा। उसमें यह है कि आतंकवाद का हमला तो है लेकिन आतंकवाद विरोधी कानून से आम नागरिक भी आतंकित होते हैं। आतंकवाद और आतंकी को कानून से आतंकित नहीं किया जा सकता। जो फिदायीन होते हैं जो सुसाइड बम्बर होते हैं उसे हम यह नहीं कहते हैं कि तुम्हें हम मौत की सजा देंगे, इसलिए तुम नहीं आओ। ये डिटेरेंट नहीं हैं। वे पोटेशियम साइनेट ले कर आते हैं। जिन आफिसर्स से इंफोर्मेशन मांगते हैं, अगर वे इंफोर्मेशन नहीं देंगे या गलत इंफोर्मेशन देंगे, उन्हें हम तीन साल की सजा देंगे, कानून में ऐसा प्रावधान रखने के खिलाफ हमने अमेंडमेंट दिया था।

अध्यक्ष महोदय : जब अमेंडमेंट आएगा, तब आप कहिएगा।

मोहम्मद सलीम : महोदय, जहां तक नेशनल इंवेस्टीगेशन एजेंसी की बात है, फेडरल स्ट्रक्चर है। अकाली दल के नेता और दूसरी रीज़नल पार्टी के नेता, सभी ने कहा है कि भारतीय जनता पार्टी और कांग्रेस से कोई पोब्लम नहीं है क्योंकि वे यूनिटरी सिस्टम चाहते हैं। हमने इसका समर्थन किया है। लेकिन जो शेडयूल है, उसे हमने दो हिस्से में

बांटने के लिए कहा है। छह कानून, जो एटोमिक लॉ की तरह हैं, उन्हें एक शेडयूल में रखो और कोर्ट का जो क्रिमिनल प्रोसीजर कोड से सम्बन्धित है, उसे दूसरे शेडयूल में रखो।

अध्यक्ष महोदय, हमारे जो अमेंडमेंट्स हैं, हम उम्मीद करेंगे कि सरकार उन पर तवज्जो दे। चूंकि यह कानून अभी बन रहा है और हम बाद में इस पर डिस्कस करें, तो उससे बेहतर होगा कि हम एक दुरूस्त कानून लेकर आएं।

*SHRI M.SHIVANNA (CHAMRAJANAGAR) : Thank you, Sir. I am grateful to you for giving me an opportunity to participate in the discussion on this very important Bill. The National Investigation Agency Bill, 2008 and Unlawful Activities (prevention) Amendment Bill 2008 introduced by the Hon. Minister for Home Affairs Shri P.Chidambaram and I congratulate the Hon. Minister for the landmark step taken by him.

Terrorist activities are taking place in our country sporadically. Thousands of innocent people are killed in those inhuman acts. People of the country are expressing their anguish about such mindless activities. Terrorism is not confined only to India, but people all over the world are facing this danger. For instance terrorists attacked World Trade Centre in the United States. In our country almost all the cities like Bangalore, Hyderabad, Delhi, Ahmedabad, Guwahati faced terror attacks and recently the financial capital of India Mumbai was targeted by terrorists. It is high time to take concrete steps to root out terrorism from our homeland. The Hon. Minister Shri P.Chidambaram has brought this historic Bill right in time. I would like to appreciate his initiative and support the Government to take stringent action to curb the menace of terrorism in the country . I would like to say that the entire House and the whole of our country is one with him while dealing with terrorism. All the citizens of our country would stand by the Government to fight against terrorists.

Sir, in the recent Mumbai terror strike our NSG commandos have been killed and I would like to pay homage to those who sacrificed their lives for the country.

I once again congratulate the Hon. Minister and express my support to this Bill and conclude my speech.

***English translation of the speech originally delivered in Kannada.**

SHRI KINJARAPU YERRANNAIDU (SRIKAKULAM): Thank you, Mr. Speaker.

The hon. Home Minister brought forward the National Investigation Agency Bill, 2008 and Unlawful Activities (Prevention) Amendment Bill, 2008 for discussion and passing. I am welcoming both the Bills.

It would have been better if they were brought before the House earlier, to amend those laws. Why? We had the United Nation Security Council Resolutions; we had the Administrative Reforms Commission which suggested that we should combat terrorism. Even though those two reports were pending for a long time, only after the terrorist attacks on Mumbai, these are brought before the House. Had they been brought earlier, we could have prevented some incidents. Even the States are not well-equipped with modernization of police force; they have so many social obligations. Even their finances are very constrained. [p87]

Whatever help the States need to combat terrorism the Government of India should be able to provide them. Even the police forces also should be given the most modern weapons and good training to combat terrorism. Once this National Investigation Agency Bill is passed, the earlier terrorists' attacks should also be transferred to it. It should also investigate and prosecute the offenders involved in the earlier attacks.

Under the Separation of Power, as per Section 6, rule 5 : "Notwithstanding anything contained in this Section, if the Central Government is of the opinion that a schedule offence has been committed which is required to be investigated under this Act, it may *suo motu* direct the Agency to investigate the said offence". This will encroach upon the State's power given in the Constitution of India. So, the earlier provisions are okay. The Agency should not proceed without the knowledge of the State Government. Every State will cooperate with the Central Government why it should be *suo motu* investigated? Ultimately the

whole purpose of it is to combat terrorism. To combat terrorism both the State Government and the Central Government should come together. We have to work together cutting across the political lines. So, the provision of handing over the case *suo motu,* without the knowledge of the State Government, to the National Investigating Agency, is something which I think the hon. Home Minister should clarify to the States.

We are giving more power to the investigating officers. Caution should be observed while selecting these investigating officers. ...(*Interruptions*)

MR. SPEAKER: Shri Bwiswmuthiary, you were not here when I called your name. How can I give you a chance to speak?

SHRI KINJARAPU YERRANNAIDU: We have to take officers from various police organizations, like SPG or even CBI, on deputation.

MR. SPEAKER: Shri Bwiswmuthiary, do not exceed four minutes.

...(*Interruptions*)

SHRI KINJARAPU YERRANNAIDU : These are the suggestions that I wanted to make.

श्री सानछुमा खुंगुर बैसीमुथियारी (कोकराझार) : आदरणीय अध्यक्ष जी, आपने सदन में अनलॉफुल एक्टिविटीज (प्रिवेंशन) अमैंडमेंट बिल 2008 और नेशनल इनवैस्टिगेशन एजेंसी बिल 2008 पर हो रही चर्चा में बोलने का जो अवसर दिया है, मैं उसके लिए आभार व्यक्त करता हूं। मैं इन दोनों विधेयकों का समर्थन करने के लिए खड़ा हुआ हूं लेकिन मेरे कुछ सुझाव हैं। मेरा निवेदन है कि आप उन सुझावों को अच्छी तरह समझें और बिल में शामिल करें। अनलॉफुल एक्टिविटीज प्रिवैंशन अमैंडमेंट बिल को जो नाम दिया गया है, मुझे समझ नहीं आया और मैं उससे संतुष्ट नहीं हूं क्योंकि 26 नवम्बर को मुम्बई में जो हमला हुआ और 30 अक्तूबर को असम की कुछ जगहों में जो शक्तिशाली बम विस्फोट हुए थे, उन्हें देखते हुए हिन्दुस्तान के लोगों की तरफ से दबाव आया कि यहां जो आतंकवाद चल रहा है, उसे दबाने के लिए एक शक्तिशाली कानून की जरूरत है। उस सोच और भावना को देखते हुए यह बिल आया है। मेरा सुझाव है कि अगर आतंकवाद और आतंकवादियों को डिफीट करना है तो इस विधेयक का नाम टैरारिस्ट एक्टिविटीज प्रिवैंशन बिल, 2008 होना चाहिए।

पाकिस्तान और बंगलादेश की तरफ से क्रॉस बॉर्डर टैरारिज्म होता है। उसे डिफीट करने के लिए कोई प्रॉविजन नहीं है। चाहे असम हो या नॉर्थ ईस्टर्न की दूसरी स्टेट्स हों, वहां जो आतंकवाद चल रहा है, वह बंगलादेश के रास्ते से होता है। अगर वह ऐसे ही चलता रहेगा तो आप उसे कैसे खत्म करेंगे। इसलिए क्रॉस बॉर्डर टैरारिज्म को रोकने के लिए कोई प्रावधान करने की जरूरत है। हमारे देश के लिए नेशनल सिक्योरिटी लॉ एंड ऑर्डर सिचुएशन को ठीक रखने में जो पुलिस अफसर अपने दायित्व को अच्छे ढंग से नहीं निभा पाते हैं उनकी रिस्पांसिबिलिटी एकाउंटिबिलिटी फिक्स करने की जरूरत है। हम जो नए कानून बनाने जा रहे हैं, उनका प्रयोग हमारे निर्दोष लोगों के ऊपर खास तौर से ट्राइबल लोगों के ऊपर न किया जाए। हमारे लिए एक बहुत बड़ी समस्या है जब हमारा बोडो लैंड आंदोलन चल रहा था, तब हजारों निर्दोष लोगों पर टाडा कानून इम्पोज किया गया था और हजारों लोगों को जेल भेजा गया था। आज तक भी बोडो लैंड के उन केसिस को भारत सरकार ने विड्रॉ नहीं किया है। मैं आज मांग करना चाहता हूं कि जो भारत सरकार, असम सरकार और डीएलपी के साथ नया बोडो समझौता वर्ष 2003 में हुआ था, उसमें भारत सरकार ने वादा किया था कि बोडो लैंड मूवमेंट रिलेटिड जितने केस हैं, इन सारे

केसिस को विड्रा करेंगे। लेकिन आज तक भी उसे विड्रॉ नहीं किया गया है। मैं आपके माध्यम से भारत सरकार से दरख्वास्त करना चाहता हूं बोडो लैंड आंदोलन के सिलसिले में जो केसिस पड़े हुए हैं, इन सब केसिस को विदड्रॉ किया जाए।

श्री रामदास आठवले (पंढरपुर) : महोदय, हम इस गंभीर वातावरण में दो कानून पास करने जा रहे हैं।

अध्यक्ष महोदय :आपको बोलने के लिए चार मिनट मिलेंगे।

श्री रामदास आठवले : महोदय, मुझे तो दस मिनट चाहिए।

अध्यक्ष महोदय : आप बोलिए, यह मजाक करने की जगह नहीं है।

श्री रामदास आठवले : महोदय, माननीय मंत्री श्री चिदंबरम जी राष्ट्रीय अन्वेषण अभिकरण विधेयक, 2008 और विधि विरुद्ध क्रियाकलाप (निवारण) संशोधन विधेयक, 2008 सदन में लाए हैं। हमारे देश की संसद कानून बनाने में सबसे आगे है। हम कानून बना रहे हैं, लेकिन 13 दिसंबर, 2001 को पॉर्लियामेंट पर हमला हुआ था, तब माननीय अटल बिहारी जी प्रधानमंत्री थे और माननीय आडवाणी जी गृह मंत्री थे, तब पोटा कानून बनाया गया था लेकिन यह बहुत खोटा था। वे पोटा लाए थे लेकिन उसका मिसयूज भी हुआ था। अब माननीय मनमोहन सिंह जी के नेतृत्व में सरकार है, चिदंबरम साहब को अच्छा डिपार्टमेंट मिला है, पहले उनके पास दूसरा डिपोर्टमेंट था, यह भी सामना करने के लिए उससे अच्छा है। मुंबई में 26 तारीख को जो हमला हुआ है इसमें दस लोगों ने पूरी दुनिया को जगाने का प्रयत्न किया है। इससे निपटने के लिए भी कानून

चाहिए और मेरी मांग है कि इसके लिए हमें हथियार भी चाहिए। एके-47 जैसे हथियार पुलिस के पास होने चाहिए। हमारे जैसे एमपी लोगों को भी एके-47 देना चाहिए क्योंकि हमारे ऊपर कब हमला होगा इसका पता नहीं है।

MR. SPEAKER: Then there will be no candidate for 'Speakership'.

श्री रामदास आठवले : हमारे एमपी सिर्फ पिस्तौल या बंदूक रखते हैं लेकिन बंदूक से क्या हो सकता है क्योंकि ये लोग पाकिस्तान से आते हैं। अभी तक पाकिस्तान ठीक बात नहीं कर रहा है। ये कभी थोड़ी ठीक बात करते हैं तो कभी उल्टी-सीधी बात करते हैं लेकिन हमारे माननीय मंत्री प्रणव मुखर्जी बहुत अच्छी बात करते हैं। लेकिन अब सिर्फ बात करने से काम नहीं चलेगा, वक्त आने पर उनके ऊपर हमला करने की जरूरत है। मेरे कहने का मतलब यह है कि हम पाकिस्तान के साथ दोस्ती बिगाड़ना नहीं चाहते क्योंकि हम भी युद्ध करके थक चुके हैं, अब दोस्ती होनी चाहिए। लेकिन ऐसी स्थिति में एक बात अच्छी हो जाती है कि जब हमला होता है तब हम एक हो जाते हैं लेकिन उसके बाद बिखर जाते हैं। हमारी स्थिति कुछ इस तरह की है। अब हम लोगों को एक साथ रहना चाहिए। मुझे पूरा विश्वास है कि अब यह कानून बनने वाला है और हमारी सरकार रहने वाली है। ये उधर ही रहेंगे और हम इधर ही रहने वाले हैं। मैं अपनी पार्टी की ओर से कहना चाहता हूं कि हम चाहते हैं अच्छे कानून बनाएं, चार महीने में अच्छा काम करें क्योंकि बाद में आपको ही स्पीकर बनाना है और आप ही को स्पीकर बनना चाहिए। आप तो स्पीकर बनेंगे लेकिन मेरा क्या होगा? [r88]

20.00 hrs

हम आपको स्पीकर तो जरूर बनायेंगे। सोनिया गांधी जी हैं, लालू जी हैं, श्री शरद पवार जी हैं, हम सब लोग दोबारा आपको स्पीकर बनायेंगे, चाहे कम्युनिस्ट पार्टी वाले कुछ भी करें, लेकिन हमारी मैजोरिटी आने वाली है।

अध्यक्ष महोदय : इससे आपको टाइम ज्यादा नहीं मिलेगा, टाइम केवल चार मिनट ही मिलेगा।

श्री रामदास आठवले : हम चार मिनट से ज्यादा लेंगे, आपको स्पीकर बनाने के लिए मुझे ज्यादा टाइम चाहिए। इसमें हंसने की कोई बात नहीं है, मैं बहुत सीरियस हूं। इसीलिए ज्यादा वक्त न लेते हुए आतंकवाद के विरुद्ध जो कानून बन रहा है, उसका मैं अपनी रिपब्लिकन पार्टी की ओर से पूरा समर्थन करता हूं। हम सब एक हैं। जय भीम, जय भारत।

MR. SPEAKER: Any written speech can be laid on the Table of the House.

श्री खारवेल स्वाई (बालासोर) : सर, श्री तापिर गाव दो मिनट बोलने के लिए आए हैं।

MR. SPEAKER: We have had more than six hours discussion on these Bills. The Party has no time. I have accommodated every body. लेकिन दो मिनट में खत्म करेंगे तो ठीक है।

श्री खारवेल स्वाई : सर, दो मिनट दे दीजिए।

MR. SPEAKER: I am afraid of Shri Swain.

श्री तापिर गाव (अरुणाचल पूर्व): ऑनरेबल स्पीकर साहब, जो कानून सदन में लाया गया है, सुबह से इस पर चर्चा हो रही है। इसमें कोई दो राय नहीं है, मैं भी इसका समर्थन करने के लिए खड़ा हुआ हूं। लेकिन इस बिल को सदन में लाने के बाद हमें यह सोचना चाहिए कि हमें इस पर आगे क्या करना चाहिए, इस पर मैं केवल दो मिनट बोलना चाहता हूं। श्री चिदम्बरम साहब, इस पोस्ट पर नये हैं।

Sir, I will request the hon. Home Minister to go through the Armed Forces Special Protection Act, a gift of the Congress Government to the people of the North Eastern Region and according to the law एक कांस्टेबल भी किसी को शूट कर सकता है। लेकिन कोई क्वैश्चन नहीं कर सकता है। आपको इस कानून को जरूर लाना चाहिए। आर्म्ड फोर्स स्पेशल पावर एक्ट, जो पूर्वोत्तर राज्यों में सदियों से लागू है, उसे आपको रैविटफाई करना चाहिए।

MR. SPEAKER: You are already speaking from an unauthorised place. I should delete every word that you have uttered.

SHRI TAPIR GAO: Sir, I seek your permission now.

MR. SPEAKER: It is only afterwards.

श्री तापिर गाव : भारत में आज हम देख रहे हैं कि ए.के.-47 वर्सेस 303 है, हैंड ग्रेनेड वर्सेस लाठी है। इस कानून को पारित करने के बाद I would like to know if passing of this Bill will facilitate our Police Force with sophisticated Arms like AK-47 rifles and all other sophisticated weapons in this age of advanced science to deal with terrorists? ...*(Interruptions)*

MR. SPEAKER: No more please.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, would you please allow me to speak just one sentence.

MR. SPEAKER: No more please. There are too many `one sentence' people.

Shri P. Chidambaram.

*DR. VALLABHBHAI KATHIRIA (RAJKOT) : Respected Sir, I rise to support both the bills introduced by Honourable Home Minister. First of all, I pay my sincere homage to the victims of terrorist attck on 26th November in Mumbai.

Respected Sir, I am sorry to say that this type of bill was necessary long before. It is too late, but better late than never " देरआयद दुरुस्त आयद " When there is fire, we start digging the well but angry. It was highly necessary for the solidarity, sovereignty of our beloved nation. We have been independent after long long period of slavery from British Imperialism. We are at present biggest democratic nation in the world. It is our duty to conserve the freedom at any cost.

Today, Country is fighting against terrorism. Country is one to fight against terrorism. It is true that our country is the number one country to be affected by the terrorism but we have failed to combat terrorism till today.

Sir, our party is demanding for a long time for such stringent law against terrorism. In Gujarat, we have passed GUJCOK Bill against terrorism, but it is still pending at Central Government level for the last four years.

Now, at least, the Government has shown the strong will for such bill. We have to show strong political will and solidarity all over the country. Government should start taking hard actions along with passing the Bill.

First and foremost, the Government should clear the file of Afzal for death imprisonment as early as possible. Government should clear the acts passed by the State Government like 'GUJCOK' by Gujarat.

Sir, we have to make bureaucracy practical in this field. Bureaucrats are not briefing firmly or properly and just ignore by saying that " there is no such proposal" at present. But Sir, it is their duty to alert the ministers regarding real situation in the country without bias or fear.

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* The speech was laid on the Table.

Sir, I would like to inform the House that in Gujarat, our fishermen hijacked by Pakistani Coast Guard along with their fishing boasts. After political dialogues, the fishermen are released. Their boats are not given back. Our Honourable Chief Minister Shri Narenderbhai Modi warned the Central Government and Honourable Prime Minister, that these boats might be misused by the Pakistan for terrorist activities. This has come true in Mumbai attack. Even, Government of Guarat is asking for high speed boats for the coast guard to seize the Pakistani boats. But it was never considered in Budget.

I am sorry to say that now Government has awakened suddenly and sanctioning the boats, arms, equipments and necessary things urgently. Where this money will come from? Such type of delayed technique should be discouraged.

Sir, after first terrorist attack, all politicians are blamed like anything. Our image is at the lowest level at present. They wish that politicians should take strict actions against Pakistan which is source of Terrorism. Otherwise, people will take law in their hand.

The 'Wednesday' and 'Rang De Basanti' pictures are indicative of people's reaction.

It is my earnest request to withdraw Z+ and Z type of security voluntarily by the VIPs. People are very much critic of such type of security. I congratulate our Home Minister, Honourable Shri Chidambaram Ji to refuse such type of security.

At this juncture, I don't undermine the security of our beloved leaders and VIPs. But as in USA and other countries, there are security people in civil dress with better security, but they are not visible as our commandoes which send bad message to the people of the country. It is misunderstood that the VIPs are concerned with their lives only and not of the public. They are not serious about the safety and security of public at large.

Sir, that is why I support the bill. But along with the law, just like disaster management, we have to have 'Preparedness for

Terrorism' in advance at all level. It requires 'holistic' approach to counteract terrorism.

I would like to suggest the Government to introduce compulsory military training to all young youth of the country after graduation, at least for one year. The details may be worked out. NSS and NCC are not sufficient for this purpose.

We have to sensitize the public for self defence, safety, security and awareness by various programmes and media. We have to inject the spirit of "Nationalism" among people. Sir, There is a dire need to have balanced co-ordination amongst public, police, military, intelligence agency, armed forces and political wing along with bureaucracy. It requires programmes and dialogues off and on at various levels in different parts of country.

Lastly Sir, I would urge to the media to have self-discipline amongst their competition. There is a need to have guidelines for comments, what to show and what not etc. Otherwise, they are the fourth pillar of our democracy and doing wonderful job for public awareness.

With these words, I support the bill with request that many amendments required will be considered at the earliest.

In period of national urgency, the bill may be enacted as early as possible.

*SHRIMATI JHANSI LAKSHMI BOTCHA (BOBBILI) : Sir, I rise to support the National Investigation Agency Bill, 2008; and the Unlawful Activities (Prevention) Amendment Bill,2008. These Bills have been brought forward by the hon. Home Minister, Shri Chidambaram, in the backdrop of the Mumbai terrorists attack.

The manner in which terrorists are carrying out attacks in the last four years against India in various parts of the country killing innocent people and derailing our economy, these Bills ought to have been brought forward long back. Fortunately there is broad consensus among all sections of the House for such a law.

The National Investigation Agency will be empowered to take over the probes in terror-related offences across the country. I congratulate the hon. Prime Minister, Dr Manmohan Singh, UPA Chairperson, Shrimati Sonia Gandhi and hon. Home Minister, Shri Chidambaram for these legislations. On a glimpse of these Bills, I find more teeth have been given to make them more effective, thanks to the UPA Government.

As it is very clear, every care is taken in these Bills to prevent their misuse in implementation. I request the honorable Home Minister to focus on this issue and reassure the House.

As we all know terrorism is not having any religion, race or region. Immediate implementation of these laws will definitely deter the terrorists acts and if at all they take place speedy trial on day to day basis, the miscreants will be sent to punishment. In fact, the manner in which Parliament has condemned with one voice the Mumbai terror attacks shows an unprecedented show of unity by politicians across party lines, I express my gratitude to all the political parties. All the political parties should realize the grave situation and stand united against terrorism. I think united and strong political will is the first step in fighting terrorism.

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* The speech was laid on the Table.

In fact, we are surrounded by two hostile neighbours. They provide shelter and safe haven to the terrorists operating from their lands. They are jealous of our becoming a super-power. Therefore, they are indulging in supporting terrorists. Are they not duty bound to stop terrorist activities on their soils? If they cannot rein in rogue elements in their countries they have to face consequences. A short message should be sent from Parliament to these nations.

The National Investigation Agency Bill, 2008 has been well drafted lucidly given notes on each clause. Just for the officials to note, Clause I says "where they may be and persons on ships and aircrafts.." I think it should be aircraft. Clause 10 allays the apprehensions of some State Government that investigation shall not affect the powers of the State Government to investigate and prosecute any Scheduled Offence or any other offences. In a way, this Bill seeks active cooperation from State Governments. I am sure; they will be fully informed of the progress of cases.

In clause 21, it has been said that the State Government may constitute one or more Special Courts for the trial of offence..." Will the Central Government provide funds to the State governments for setting up more Special Courts? If so, for how many years? It should not be for a period of five years and then States should bear the entire expenditure after this period.

This Bill envisages setting up of Special Courts. The present infrastructure available in the courts is woefully inadequate. I do not know how these would be set up.

High Courts have been given powers to make rules. What is more important is clause 23 (2) says "Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament." The UPA Government has already allayed the apprehensions of the people that the trials would be transparent and fair.

There are still gaps in the international border fencing. Illegal trade is going on our borders. There are reports that while doing trade they bring in drugs and sophisticated weapons also.

We must complete the sealing of Indo-Bangladesh border. He should also provide adequate security in the riverine patches. Wherever border fencing is not possible, find a method as to how to make it more secure. Can the Minister tell us the time-frame for completing the fencing of the border?

We all know that there is no proper coordination between intelligence gathering and intelligence sharing. This should be improved; and the hon. Home Minister should address this problem at the earliest.

The latest terror attack i.e,. the Cyber Crimes should also be brought under this new agency. I also request the Home Minister to take steps to tackle cyber terrorism. Cyber terrorism is posing serious threats across the world. I think, cyber terrorism will be the biggest threat to the world in the near future. "Terrorism" is the most common word in the world today. But we are ignoring about cyber terrorism. We all know that criminals have hacked into wi-fi systems of individuals to send terror mails ahead of Mumbai, Ahmedabad and Delhi blasts. The Home Minister should hold consultations with other countries to institute an expert body to counter cyber crimes.

To conclude, for better implementation of these laws and prevent terror acts, our police force should be modernized with latest weapons and communication systems.

With these few words, I support the Bills wholeheartedly.

*SHRIMATI TEJASVINI GOWDA (KANAKAPURA) **:** Sir, I rise to support two important Bills i) The National Investigation Agency Bill 2008 and 2) The Unlawful Activities (Prevention) Amendment Bill 2008 in this August House introduced by our UPA Government's Home Minister Shri P. Chidambaram who was led by only determined Prime Minister Dr. Man Mohan Singhji and guided by our UPA Chairperson Smt. Sonia Gandhiji.

Since POTA was misused by some forces, UPA Government withdrew it and now with lot of modifications and meaningful acts, introducing two new bills to prevent terrorist actions on the soil of our mother land. Sir, let us not break our heads regarding what happens in the Pakistan soil. It is their internal problem. The land which does not have any respect of democratic value cannot be expected to act tough on the issue of terrorism.

As a democratic sovereign nation India is having all the right to guard her citizens and borders from the barbaric attack by terrorists, irrespective of whether they come from Bangladesh, Nepal or Sri Lanka. As a peaceful country, India has shown ton of tolerance, to these rough forces in spite of being lost the most precious lives, like our late Father of the Nation Mahatma Gandhi, late Prime Ministers like Smt. Indira Gandhiji, and young Prime Minister Shri Rajiv Gandhi. After the attack on our Parliament, Delhi, Gujarat, J&K, Bangalore, Jaipur, Mumbai, now India is showing zero tolerance towards terrorism. That is why Government is bringing strong acts to prevent terror. Let us not target some innocent people, who belong to particular minority community. Let us act as patriotic Indians.

Please ensure more modern weapons, army and advanced ammunitions to our armed forces commandos, police and other related people. Please ensure most tactful training to them. Please take necessary measures to provide decent livelihood and other needs like Housing, proper quality of ration, scholarship to

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* The speech was laid on the Table.

the poor police men and respectful professional conditions. Please restrict their working hours to 8 hrs. only.

Why do the Government not think of awarding a Capital punishment to the people who, conspire, facilitate, and to fund the

terrorist activities in the Indian soil. I urge the Government please award the capital punishment for the actors of the terror who intentionally attack the people and soil of India.

Please re-look in the matter of considering the messages, sms, interception between two terrorists seriously. I think our investigative agency is the right agency to identify the accuracy of such evidence.

At last, I thank the Opposition Leader Hon'ble Shri L.K.Advaniji for his whole-hearted support to the Government to curb the terrorism in their soil.

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Mr. Speaker, Sir, the hon. Leader of the Opposition and 25 other hon. Members have participated in this very important debate on two Bills and I am grateful to all of them. In fact, all but one or two of them have broadly supported both the Bills and even those who spoke against certain clauses in the Bills expressed their genuine reservations. They were not opposed to the Bills as such or the intent behind the Bills, but expressed some apprehensions and reservations which I respect.

At the end of the day we may agree to disagree but I want to assure even those hon. Members who have spoken against one or two clauses, I respect their views, but give a chance for these Bills to become a law and let us apply these laws and then if it becomes necessary to re-visit any part of these Bills we can always re-visit those parts. [R89]

Let me begin by thanking you very profusely for taking up these two Bills for consideration and passing immediately. It is entirely within your prerogative to send it to the Standing Committee but I may say with respect that you have captured the mood of the nation. The nation expects this House to pass these laws today and the nation expects Parliament to pass these laws in this Session so that there is a sense of confidence restored among the people. So, on behalf of the Government and on behalf of the House, I thank you for taking up these Bills.

Much of the debate is about POTA and how this Bill compares with POTA. Life of the nation cannot be divided into pre-POTA and post-POTA. POTA was a law which the Government of the day brought on to the Statute Book because it felt that such a law was necessary. But the successor elected Government came to the conclusion that POTA was not necessary and POTA was not an appropriate law and hence repealed that law. No purpose was served on debating on the wisdom of bringing in POTA or the wisdom of repealing POTA. These are matters on which an executive government can take a decision and subject to Parliament's approval, a law is passed or a law is repealed.

The point that I wish to make and specially, I wish to bring to the attention of the hon. Leader of the Opposition is that all these laws, as my good friend, Shri Kapil Sibal said, are punitive laws, they are not preventive laws. The only preventive law that we have is the National Security Act. The National Security Act allows for preventive detention including for matters relating to security of State or the security of India for the defence of India. The National Security Act can be invoked and the person can be placed under detention for upto one year but under very strict safeguards and, of course, under the watchful gaze of the courts which exercise the power of issuing writs of habeas corpus. Except for the National Security Act and similar laws in respect to special matters like drugs and psychotropic substances, the laws that we are making, the laws that we are amending are punitive laws. These laws can be invoked only after the crime is committed or when the crime is about to be committed. But for a jihadi terrorist, the kind of terrorist we face today, this is no deterrent. He comes here to die, he comes to kill. This is not a deterrent to him. So, whether it is POTA or MOCOCA or UAPA that is no deterrent to the jihadi terrorist. What these laws do is (i) give a sense of confidence to the people that the criminals will be punished (ii) give a sense of confidence to the police forces that they are armed with sufficient legal powers to take legal action (iii) give confidence to the prosecution that if they are able to prove the offence armed with the powers available under this law, they can secure a conviction for the accused, and generally give a sense of confidence that we are seriously addressing the issues of security of the State.

The hon. Leader said not to look at this matter through a communal prism. I may be accused of anything but I do not think that anyone has accused me so far of looking at matters through a communal prism. All laws in this country are secular laws except the personal laws of each religion. All laws are secular and nothing can be more secular than a criminal law. Criminal law is secular and criminal law does not recognise religion, caste or creed. Criminal law only recognises whether the person has

committed the offence or not. I assure this House that in applying these laws, in implementing these laws, it will be my endeavour to see that these laws are applied uniformly without discrimination, against any section of people that indulge in terrorist crimes or terrorist acts. We are not concerned about religion or caste or creed of the terrorists. If he is a terrorist, these laws will apply and he will be prosecuted and punished.

Sir, the main criticism of the Left has been that we have brought back POTA. In fact, one criticism is that I have travelled half way do[U90]wn the POTA road.

Nothing can be farther from the truth. I would urge the hon. Members to read the provisions of the Unlawful Activities (Prevention) Amendment Bill carefully. Firstly, to answer the question raised by one of the hon. Members, Section 15, which we have now replaced, which reflects international consensus on what is a terrorist act, includes within it, "any act with intent to strike terror or likely to strike terror in the people or in any section of the people". This is wide enough to cover what my friend Shri George has in his mind. If any act is done to strike terror or with an intent to strike terror in the people or in any section of the people, this Act can be invoked.

Again, going along with international consensus, we have brought into this Act "anyone who is attempting to raise funds for terrorist acts, anyone who organises terrorist camp and anyone who recruits any person for committing terrorist act". This is international consensus. All these must be made punishable. We have brought them under the definition of "terrorist offence".

What are the additional provisions that we have made and why are they different from the POTA? In fact, I have not had POTA as some kind of benchmark Act to make this law. What I had is the UPA Government's and, I believe, the nation's sense of values, our ethos, our sense of fair play, the principles of natural justice and the jurisprudence that has evolved in this country.

The bail provisions have, indeed, been tightened. I have said so and my friend, Shri Kapil Sibal, has said so. We have tightened the bail provisions. But when it goes beyond ninety days, we have not copied the POTA. Please look at the POTA provisions, which is Section 49 (2) and look at the new provision. In the POTA, when the Prosecutor asks the court to go beyond ninety days, the court "shall" do that. Here we have said, " the court "may" do that. There is a significant difference between the court being obliged to do something and the court being empowered to do something.

Then, in the POTA, there was no limit. Here, I have said, if you go beyond ninety days – the court may go – but no more than 180 days. So, there is a very significant difference between section 49 (2) of the POTA and the provisions which restrict bail in this law.

Then, we have said that you cannot grant bail without giving the Public Prosecutor an opportunity of being heard. Yes, in this Section, as originally drafted, it said offences punishable "under this Act" that is under Chapter 3 offences, which are unlawful assembly and unlawful association; Chapter 4 offences which are terrorist acts; and Chapter 6 offences which are terrorist funding. So, we are introducing an official amendment to say, "instead of words "under this Act", it will be "under Chapter 4 and Chapter 6 of this Act". So, that is the protection that we are giving. We are not applying this across the board, to all offences under the Act.

One of the hon. Members said that we are shifting the onus of proof. I am afraid it is completely misconceived. Shri Kapil Sibal explained it. Let me try to explain it in my own way. In any criminal case the onus of proving is always on the prosecution. It is only in civil matters the court has to decide, on the basis of probability of evidence, and the onus may shift from one side to another depending on the evidence. But in a criminal case, the onus of proof the offence is always on the prosecution from the beginning to the end of the case.

What have we done here? I explained it. Section 4 of the Evidence Act contains three kinds of presumptions. We have picked up the second presumption, namely "shall presume", and we say "(a) and (b) of Section 43 (e) – I want to repeat it – arms or explosives are recovered or finger prints are found or any other definitive evidence suggesting the involvement of the accused were found at the site of the offence". This is not somewhere else, it is in the crime scene. In the place of occurrence, if these are found, then "the court "shall presume", unless the contrary is shown that the accused has committed such offence".[MSOffice91]

You read it with Section 4 of the Evidence Act. All that it says is – "I have proved the fact; I have proved your fingerprint; I have proved that I have recovered this arm or explosive from you; and I have proved the definitive evidence gathered from the scene of the crime points to you". Now, you cannot keep silent. You go round and say what I have proved is wrong, you let in evidence to prove the contrary. What is wrong with that? â€¦ (*Interruptions*)

MR. SPEAKER: Like possession of stolen goods!

SHRI P. CHIDAMBARAM: Sir, I am deeply obliged. Yes, it is like possession of stolen goods. That is, onus of proof of the offence

does not shift. That particular fact which I have proved gives rise to a presumption, gives rise to an adverse inference, and now you prove the contrary. If you are able to prove the contrary, the court will hold you in your favour. Please contrast this with old Section 53 of the POTA, you will see the difference between old Section 53 of POTA and this Section.

Finally, I have provided an important safeguard which I think, one of the hon. Members may not have noticed. Shri Mohan Singh, I think, wanted a
Review Board. It is there. In fact, it is better than the Review Board. What we have said is in a new Section 45 sub-section 2 - Executive Government can register a case. The Executive Government can investigate a case. But before the Executive Government launches a prosecution, it shall grant sanction. But before it grants a sanction, an independent authority must review the evidence and recommend that this is a fit case for sanction. So, it is not a review after the prosecution is launched, it is a review before the prosecution is launched. Now what more safeguard can be provided? ...(*Interruptions*) That will come in the rules.

SHRI GURUDAS DASGUPTA: Let us know your mind.

SHRI P. CHIDAMBARAM: My mind is that it will be a judicial authority trained in the law who is experienced in these matters, who will be appointed as the independent authority. So, it is a review before prosecution is sanctioned. It is an important safeguard we are introducing for the first time, to my knowledge, in a criminal law - this is a very very important safeguard - that we are introducing so that this law is not misused.

Sir, I think, I have explained the Unlawful Activities (Prevention) Amendment Act. I am glad that some hon. Members have discovered virtues in the American and the British laws. All I can point out is that our jurisprudence is similar to the American and the British jurisprudence. I think what we have done is more than adequate. It balances the requirements of the investigating and prosecuting agencies and it balances the requirements of human rights.

Sir, in this behalf, I may only read one thing. While I know that the hon. Leader of the Opposition wants to admit confessions to police officers and bail provisions must be stricter, but please remember apart from the people who are watching us,â€¦....(*Interruptions*) Section 46 of the Unlawful Activities (Prevention) Amendment Act, as originally enacted, already provides for interceptions as admissible. Please read Section 46.

Now as the people are watching us, the courts are also watching us. My learned friend pointed out that Kartar Singh matter is been doubted by a two Judge Bench. But this is what the Chief Justice of India said only four days ago. I quote:

> "However, the pursuit of terrorists alone cannot be a justification for arbitrarily breaching another nation's sovereignty.
>
> Then he says, "furthermore, the trauma resulting from the terrorist attacks may be used as a justification for undue curtailment of individual rights and liberties. Instead of offering a considered response to the growth of terrorism, a country may resort to questionable methods such as permitting indefinite detention of terror suspects, the use of coercive interrogation techniques and the denial of the right to fair trial. Outside the criminal justice system, the fear generated by terrorist attacks may also be linked to increasing governmental surveillance over citizens and unfair restrictions on immigration."
>
> "In some circles, it is argued that the judiciary places unnecessary curbs on the power of the investigating agencies to tackle terrorism. In India, those who subscribe to this view also demand changes in our criminal and evidence law- such as provisions for longer periods of preventive detention and confessions made before police officials to be made admissible in court. While the ultimate choice in this regard lies with the legislature, we must be careful not to trample upon constitutional principles such as `substantive due process[a92]."[a93]
>
> "This guarantee was read into the conception of 'personal liberty' under Article 21 of the Constitution of India by our Supreme Court. The necessary implication of the same is that all Governmental action, even in exceptional times must meet the standards of reasonableness, non-arbitrariness and non-discrimination. This implies that we must be wary of the use of torture and other forms of coercive interrogation techniques by law enforcement agencies. Coercive interrogation techniques mostly induce false confessions and do not help in preventing terrorist attacks. Furthermore, the tolerance of the same can breed a sense of complacency if they are viewed as an easy way out by investigative agencies.
>
> "The proposal for the admissibility of confessional statements made before the police is also problematic since there are fears that such a change will incentivise torture and coercive interrogation by investigative agencies in order to seek convictions rather than engaging in thorough investigation."
>
> "In this regard, the role of the Judiciary should not be misunderstood. Adherence to the constitutional principle of

'substantive due process' is an essential part of our collective response to terrorism. As part of the legal community, we must uphold the right to fair trial for all individuals, irrespective of how heinous their crimes may be. If we accept a dilution of this right, it will count as a moral loss against those who preach hatred and violence. We must not confuse between what distinguishes the deliberations of a mature democratic society from the misguided actions of a few."

Therefore, what we have done is to try to balance the requirements of the law, requirements of the investigating and prosecuting agencies and the requirements of fair trial and human rights.

On the National Investigation Agency, I would like to say that there is broad support. I know some hon. Members from the Left Parties say "divide the Schedule into two parts, keep the first six under Schedule-I investigation by the NIA and keep the remaining two acts under Schedule-II to be investigated jointly by the NIA and the State agency." I think if they reflect calmly, they will realize that there have been cases in the past and there may be cases in the future where a terrorist crime takes place in a State and there is suspicion of the local police trying to cover up that crime, in such a case, if you put the UAPA in Part-II, the NIA will be completely hampered and completely hamstrung in investigating that case. I think a calmer reflection would help. I do not want to mention the names. I do not want to mention the cases but we know cases where the local police has been suspected of a cover up. If you put it in Schedule-II and mandatorily ask for association, their investigation will be completely hamstrung. Therefore, what we have done is that, if it is expedient to do so, it will ask the State agency to associate. But I will frame rules. I will frame guidelines where, in most cases, the suspicion of the local police is not there, the NIA will be advised to always or invariably – let me say - ask the State agency. So, please do not press that amendment. Let it remain in one Schedule.

Sir, finally I want to conclude. We have taken a number of steps. I do not wish to repeat them. The laws are only part of the steps. I gave a long list of steps taken in the Statement that I made a few days ago. I wish to share with this House that the hon. Prime Minister has already asked me to convene a meeting of the Chief Ministers. The meeting of the Chief Ministers has been convened on the 6th January, 2009. In the meanwhile, I have requested the Chief Ministers to take a number of steps in a letter that I have written to them. I expect them to take those steps which are very important and come to Delhi for the Conference on the 6th January where we will review the steps taken by the Chief Ministers and then deliberate on further steps to be taken.

We are at it 24 x 7. This nation cannot afford to lower its guard. Eternal vigilance is the price of liberty. We have to be vigilant and I ask the whole House to support these two Bills unanimously. Let us not divide this House. Let us not ask for Division. I promise to revisit whatever you may say when we meet next. But, in the meanwhile, let us demonstrate our unity of purpose and unity of action by passing the two Bills unanimously and telling the whole country that eternal vigilance being the price of liberty, this House will guard the liberty and security of this country.

MR. SPEAKER: Now, we take up the National Investigation Agency Bill, 2008, first.

The question is:

"That the Bill to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations and for matters connected therewith or incidental thereto, be taken into consideration."

The motion was adopted.[R94]

MR. SPEAKER: The House will now take up clause-by-clause consideration of the Bill.

Clause 2 Definitions

SHRI BASU DEB ACHARIA (BANKURA): Sir, I beg to move:

Page 2, line 10,-

for "Schedule to this Act",

substitute "Schedule I and Schedule II to this Act", (1)

MR. SPEAKER: I shall now put amendment no. 1 moved by Shri Basu Deb Acharia to the vote of the House.

The amendment was put and negatived.

SHRI BASU DEB ACHARIA : Sir, the hon. Minister of Home Affairs has given assurance that he would include it in the rules. That is why I am not pressing for division.

MR. SPEAKER: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 6 were added to the Bill.

Clause 7 Power to transfer investigation to State Government

MR. SPEAKER: Mr. Basu Deb Acharia. Are you moving amendment no. 2?

SHRI BASU DEB ACHARIA: Sir, we are supporting the Bill and the Minister has given assurance that while framing the rules he would include what we have demanded.

MR. SPEAKER: I am sure your expectation will be taken note of by the hon. Minister.

SHRI BASU DEB ACHARIA: So, on the basis of the assurance given by the Minister I am not pressing it.

MR. SPEAKER: Then I have to put the amendment and get it negatived. He is not saying that he is not pressing.

SHRI P. CHIDAMBARAM: He said, he is not pressing.

MR. SPEAKER: This is another way of saying not moving.

The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 to 17 were added to the Bill.

Motion re: Suspension of Rule 80 (i)

SHRI P. CHIDAMBARAM: Sir, I beg to move:

> "That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment no. 4 to the National Investigation Agency Bill, 2008 and that this amendment may be allowed to be moved."

MR. SPEAKER: The question is:

> "That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment no. 4 to the National Investigation

Agency Bill, 2008 and that this amendment may be allowed to be moved."

The motion was adopted.

New Clause 17A Sanction for Prosecution

Amendment made:

Page 6, *after* line 24,-

insert

"17A. No prosecution, suit or other legal proceedings shall be instituted in any court of law, except with the previous sanction of the Central Government, against any member of the Agency or any person acting on his behalf in respect of anything done or purported to be done in exercise of the powers conferred by this Act.". (4)

(Shri P. Chidambaram)

MR. SPEAKER: The question is:

"That new clause 17A be added to the Bill."

The motion was adopted.

New clause 17A was added to the Bill.

Clauses 18 to 25 were added to the Bill.

MR. SPEAKER: Mr. Basu Deb Acharia, are you moving amendment no. 3?

SHRI BASU DEB ACHARIA : Sir, since he has given assurance I am not pressing my amendment.

MR. SPEAKER: The question is:

"That the Schedule stand part of the Bill."

The motion was adopted.

The Schedule was added to the Bill.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

SHRI P. CHIDAMBARAM: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

MR. SPEAKER: I believe I can say that the Bill, as amended, is passed unanimously.[R95]

MR. SPEAKER: The question is:

"That the Bill further to amend the Unlawful Activities (Prevention) Act, 1967, be taken into consideration."

The motion was adopted.

MR. SPEAKER: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That Clauses 2 to 11 stand part of the Bill."

The motion was adopted.

Clauses 2 to 11 were added to the Bill.

Clause 12 Insertion of new Section 43A to 43F Power to arrest and seizure, etc.

SHRI BASU DEB ACHARIA : Sir, I beg to move:

Page 4, lines 48 and 49,-

for "extend the said period up to one hundred and eighty days"

substitute "need not grant extension beyond ninety days". (1)

MR. SPEAKER: I shall now put Amendment No. 1 moved by Shri Basudeb Acharia to the vote of the House.

SHRI BASU DEB ACHARIA : Sir, the Ayes have it. We want Division.

MR. SPEAKER: Are you demanding a Division?

SHRI BASU DEB ACHARIA : Yes, we all demand Division.

MR. SPEAKER: Let the Lobbies be cleared –

Now, the Lobbies have been cleared.

The question is:

Page 4, lines 48 and 49,-

for "extend the said period up to one hundred and eighty days"

substitute "need not grant extension beyond ninety days". (1)

The Lok Sabha divided:

DIVISION NO.3 AYES 20.37hrs.

Acharia, Shri Basu Deb

Appadurai, Shri M.

Bauri, Shrimati Susmita

Chakraborty, Dr. Sujan

Chandrappan, Shri C.K.

Chatterjee, Shri Santasri

Dasgupta, Shri Gurudas

Dome, Dr. Ram Chandra

George, Shri K. Francis

Hamza, Shri T.K.

Karunakaran, Shri P.

Khan, Shri Sunil

Krishnadas, Shri N.N.

Krishnan, Dr. C.

Kurup, Adv. Suresh

Manoj, Dr. K.S.

Mediyam, Dr. Babu Rao

Mohan, Shri P.

Mollah, Shri Hannan

Pal, Shri Rupchand

Panda, Shri Prabodh

Radhakrishnan, Shri Varkala

Reddy, Shri Suravaram Sudhakar

Salim, Md.

Satheedevi, Shrimati P

Sujatha, Shrimati C.S.

Surendran, Shri Chengara

Veerendra Kumar, Shri M.P.

NOES

*Aaron Rashid, Shri J.M.

Adsul, Shri Anandrao Vithoba

Advani, Shri L.K.

Agarwal, Dr. Dhirendra

Ahamed, Shri E.

Ahmad, Dr. Shakeel

Ananth Kumar, Shri

Athawale, Shri Ramdas

Athithan, Shri Dhanuskodi R.

Baalu, Shri T.R.

'Baba', Shri K.C. Singh

Bahuguna, Shri Vijay

Bansal, Shri Pawan Kumar

Barku, Shri Shingada Damodar

Bhakta, Shri Manoranjan

Bhargava, Shri Girdhari Lal

Bhuria, Shri Kanti Lal

Botcha, Shrimati Jhansi Lakshmi

Chaliha, Shri Kirip

Chaudhary, Dr. Tushar A.

Chaure, Shri Bapu Hari

*Chidambaram, Shri P.

Chinta Mohan, Dr.

Chitthan, Shri N.S.V.

Chowdhury, Shrimati Renuka

* Voted through slip.

Delkar, Shri Mohan S.

Deo, Shri V. Kishore Chandra S.

Deo, Shri Bikram Keshari

Deora, Shri Milind

Dikshit, Shri Sandeep

Dubey, Shri Chandra Shekhar

Dutt, Shrimati Priya

Elangovan, Shri E.V.K.S.

Engti, Shri Biren Singh

Fanthome, Shri Francis

Fatmi, Shri M.A.A.

Gadhavi, Shri P.S.

Gaikwad, Shri Eknath Mahadeo

Gamang, Shri Giridhar

Gandhi, Shri Rahul

*Gandhi, Shrimati Sonia

Gangwar, Shri Santosh

Gao, Shri Tapir

Gavit, Shri Manikrao Hodlya

Geete, Shri Anant Gangaram

Gehlot, Shri Thawar Chand

Ghuran Ram, Shri

Gogoi, Shri Dip

Gowda, Shrimati Tejasvini

Goyal, Shri Surendra Prakash

Handique, Shri B.K.

Hooda, Shri Deepender Singh

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* Voted through slip.

Hussain, Shri Anwar

Hussain, Shri Syed Shahnawaz

Jagadeesan, Shrimati Subbulakshmi

Jaiswal, Shri Shriprakash

Jalappa, Shri R.L.

Jena, Shri Mohan

*Joshi, Shri Kailash

Joshi, Shri Pralhad

Kader Mohideen, Prof. K.M.

Kalmadi, Shri Suresh

Kamat, Shri Gurudas

Kathiria, Dr. Vallabhbhai

Kaur, Shrimati Preneet

Khaire, Shri Chandrakant

Kharventhan, Shri S.K.

Krishnaswamy, Shri A.

Kumar, Shrimati Meira

Kumari Selja

Kyndiah, Shri P.R.

Lalu Prasad, Shri

Madam, Shri Vikrambhai Arjanbhai

Mahabir Prasad, Shri

Mahajan, Shrimati Sumitra

Maken, Shri Ajay

Meena, Shri Namo Narain

Mehta, Shri Alok Kumar

Meinya, Dr. Thokchom

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* Voted through slip.

Mishra, Dr. Rajesh

Mistry, Shri Madhusudan

Moorthy, Shri A.K.

Mukherjee, Shri Pranab

Muniyappa, Shri K.H.

Muttemwar, Shri Vilas

Naik, Shri Shripad Yesso

Narbula, Shri D.

Narhire, Shrimati Kalpna Ramesh

Nayak, Shrimati Archana

Nikhil Kumar, Shri

Nizamuddin, Shri G.

Ola, Shri Sis Ram

Palanimanickam, Shri S.S.

Pallani Shamy, Shri K.C.

Panabaka Lakshmi, Shrimati

Paranjpe, Shri Anand

Paswan, Shri Ram Vilas

Paswan, Shri Ramchandra

Paswan, Shri Sukdeo

Paswan, Shri Virchandra

Patel, Shri Dinsha

Patel, Shri Jivabhai A.

Patel, Shri Kishanbhai V.

Pathak, Shri Harin

Patil, Shri Balasaheb Vikhe

Patil, Shri Jaysingrao Gaikwad

Patil, Shri Laxmanrao

Patil, Shri Pratik P.

Patil, Shri Shriniwas Dadasaheb

Patil, Shrimati Rupatai D.

Pawar, Shri Sharad

Pilot, Shri Sachin

Ponnuswamy, Shri E.

Prabhu, Shri R.

Prasada, Kunwar Jitin

Purandeswari, Shrimati D.

Raja, Shri A.

Rajagopal, Shri L.

Rajenthiran, Shrimati M.S.K. Bhavani

Raju, Shri M.M. Pallam

Ramachandran, Shri Gingee N.

Rana, Shri Gurjeet Singh

Rana, Shri Rabinder Kumar

Rani, Shrimati K.

Ranjan, Shrimati Ranjeet

Rao, Shri D. Vittal

*Rao, Shri Rayapati Sambasiva

Rathwa, Shri Naranbhai

Rawale, Shri Mohan

Reddy, Shri M. Raja Mohan

Reddy, Shri N. Janardhana

*Regupathy, Shri S.

Rijiju, Shri Kiren

Sahay, Shri Subodh Kant

Sahu, Shri Chandra Sekhar

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* Voted through slip.

Sajjan Kumar, Shri

Sangwan, Shri Kishan Singh

Saradgi, Shri Iqbal Ahmed

Sardinha, Shri Francisco Cosme

Satpathy, Shri Tathagata

Satyanarayana, Shri Sarvey

Scindia, Shri Jyotiraditya M.

Selvi, Shrimati V. Radhika

Senthil, Dr. R.

Shandil, Dr. Col. (Retd.) Dhani Ram

Sharma, Dr. Arvind

Shivanna, Shri M.

Sibal, Shri Kapil

Singh, Chaudhary Bijendra

Singh, Dr. Akhilesh Prasad

Singh, Dr. Raghuvansh Prasad

Singh, Rao Inderjit

Singh, Shri Devwrat

Singh, Shri Ganesh Prasad

*Singh, Shri Lakshman

*Singh, Shri Manvendra

Singh, Shri Mohan

Singh, Shri Sita Ram

Singh, Shri Suraj

Singh, Shrimati Kanti

Singh, Shrimati Pratibha

Solanki, Shri Bharatsinh Madhavsinh

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* Voted through slip.

Subba, Shri M.K.

Sugavanam, Shri E.G.

Suklabaidya, Shri Lalit Mohan

Suman, Shri Ramji Lal

Sumbrui, Shri Bagun

Swain, Shri Kharabela

Thangkabalu, Shri K.V.

Thummar, Shri V. K.

Thupstan, Shri Chhewang

Tirath, Shrimati Krishna

Tytler, Shri Jagdish

Vallabhaneni, Shri Balashowry

Velu, Shri R

Venkatapathy, Shri K.

Vijayan Shri A.K.S.

Vundavalli, Shri Aruna Kumar

Yadav, Dr. Karan Singh

Yadav, Shri Anirudh Prasad alias Sadhu

Yadav, Shri Devendra Prasad

Yadav, Shri Giridhari

Yadav, Shri Jay Prakash Narayan

Yadav, Shri M. Anjan Kumar

Yadav, Shri Ram Kripal

Yadav, Shri Sita Ram

Yaskhi, Shri Madhu Goud

MR. SPEAKER: Subject to correction*, the result of the Division is:

Ayes: 28

Noes: 179

The motion was negatived.

...(*Interruptions*)

MR. SPEAKER: Silence in the House, please.

The next amendment is by Shri Gurudas Dasgupta. Are you moving it?

SHRI GURUDAS DASGUPTA : No, Sir, I am not moving it.

MR. SPEAKER: Amendment No. 3, Shri Basu Deb Acharia. Are you moving it?

SHRI BASU DEB ACHARIA : Sir, I am not pressing it.

MR. SPEAKER: Government Amendment No.4, the hon. Minister.

Amendment made:

Page 5, line 21,-

for "offence punishable under this Act",

substitute "offence punishable under Chapters IV and VI of this Act". (4) (Shri P. Chidambaram)

MR. SPEAKER: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

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* Ayes + Nil = 28

Noes 179 + S/Shri J. M. Aaron Rashid, P. Chidambaram, Shrimati Sonia Gandhi, S/Shri Kailash Joshi, Rayapati Sambasina Rao, S. Regupathy, Lakshman Singh and Manvendra Singh also recorded their votes through slips =187.

Clause 13 Amendment of Section 45

Amendments made:

Page 6, lines 14 and 15,-

for "shall be given only after considering the report",

substitute "shall be given within such time as may be prescribed only after considering the report". (5)

Page 6, lines 17 and 18,-

for "make a recommendation to the Central Government",

substitute "make a recommendation within such time as may be prescribed to the Central Government". (6)

(Shri P. Chidambaram)

MR. SPEAKER: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14 was added to the Bill.

Motion Re: Suspension of Rule 80 (i)

SHRI P. CHIDAMBARAM: Sir, I beg to move:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 7 to the Unlawful Activities (Prevention) Amendment Bill, 2008 and that this amendment may be allowed to be moved."

MR. SPEAKER: The question is:

"That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 7 to the Unlawful Activities (Prevention) Amendment Bill, 2008 and that this amendment may be allowed to be moved."

The motion was adopted.

New Clause 14 Amendment of Section 52

Amendment made:

Page 6, *after* line 33,-

insert "**14A**. In section 52 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted,-

'(ee) the time within which sanction for prosecution and recommendation to the Central Government shall be given under sub-section (2) of section 45, and'". (7)

(Shri P. Chidambaram)

MR. SPEAKER: The question is:

"That new clause 14A be added to the Bill."

The motion was adopted.

New Clause 14A was added to the Bill.

Clauses 15 and 16 were added to the Bill.

Clause 1, the Enacting Formula, and the Title were added to the Bill.

MR. SPEAKER: The Minister may now move that the Bill, as amended, be passed.

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

MR. SPEAKER: Now the Lobbies be opened.

The House stands adjourned to meet tomorrow, the 18th December, 2008 at 11 a.m.

20.40 hrs

The Lok Sabha then adjourned till Eleven of the Clock

on[r96] Thursday, December 18, 2008/Agrahayana 27, 1930 (Saka).

Fld by p1 [R1]

Acharia-cd. [U2]

[U3]cd. by q

[R4]

cd by r [R5]

Cont by s1.h [p6]

Cd by t

[N7]

[MSOffice8] Cd by u1

Fld by w1 [R9]

cd. by x [R10]

[r11]Fld by y1.e

Ctd. By z1 [m12]

[k13]contd by a2

Fld by B2 [SS14]

Fld.. by c2 [r15]

Fd bby d2 [r16]

[r17]Fd by e2

[R18]Division cd

fd. by h2 [R19]

Fld by j2 [R20]

[U21]Fd. By k2

[MSOffice22]contd. by L2

cd. by u2.e [a23]

[R24]cd by n2

[R25](Cd. by o2)

[r26]PC ctd

cd. by p2 [R27]

Cd by Q2 [r28]

cd. [r29]

Ctd. By s2 [m30]

Cd byt2 [r31]

Contd by U2 [SS32]

Ctd by w2

[r33]

Cd by y2 [KMR34]

[r35]Sh ad vani cd

[h36]cd by z2

[r37]

Cd by 'b3' [R38]

[R39]cd. by c3

[R40]Contd. By d3

[U41]Sibal-cd.

[N42]cd by e3

Cd by f3 [MSOffice43]

cd. by g3 [a44]

[R45]cd by h3

[R46](Cd. by j3)

[r47]basudeb ctd

cd. by l3 [r48]

[H49]cd. by m3

Cntd by n3.e [r50]

[k51]contd by o3

Contd. By p3 [r52]

[r53](Cd. by s3)

cd by t3 [R54]

Cont by u3.h [p55]

[N56]Fd by w3

Cd by x3 [MSOffice57]

cd. by y3.h [R58]

Cd hy Z3 [r59]

cd. [r60]

Cd by c4

[R62](Cd. by d4)

Contd by h4.e [r63]

[k64]conte by j4

[r65](Cd. k4)

cd by l4 [R66]

Fd by m4 [r67]

Cd by n4 [KMR68]

[r69]Cd by o4

Fld by p4 [R70]

[R71]cd. by 'q4'

[r72]fld,.

[U73]cd. by t4

[MSOffice74]contd. by U4

Cd by x4 [R75]

[R76](Cd. by y4)

[r77]veerndera ctd

cd. by a5 [r78]

cd. by b5 [H79]

[r80]Urdu to be typed here

Contd by c5.e [r81]

[k82]fld by e5

Contd by F5 [SS83]

cd.. by g5 [r84]

cd. by h5.h [R85]

Fd. by j5 [R86]

[p87]Cd L5

Cd byn5 [r88]

Contd. By o5 [R89]

[U90]cd. by p5

[MSOffice91]contd. by Q5

cd. by r5 [a92]

[a93]cd. by r5

Fld [R94]by s5

[R95](Fd. by t5)

[r96] Friday, March 10, 2000/Phalguna 20, 1921 (Saka).